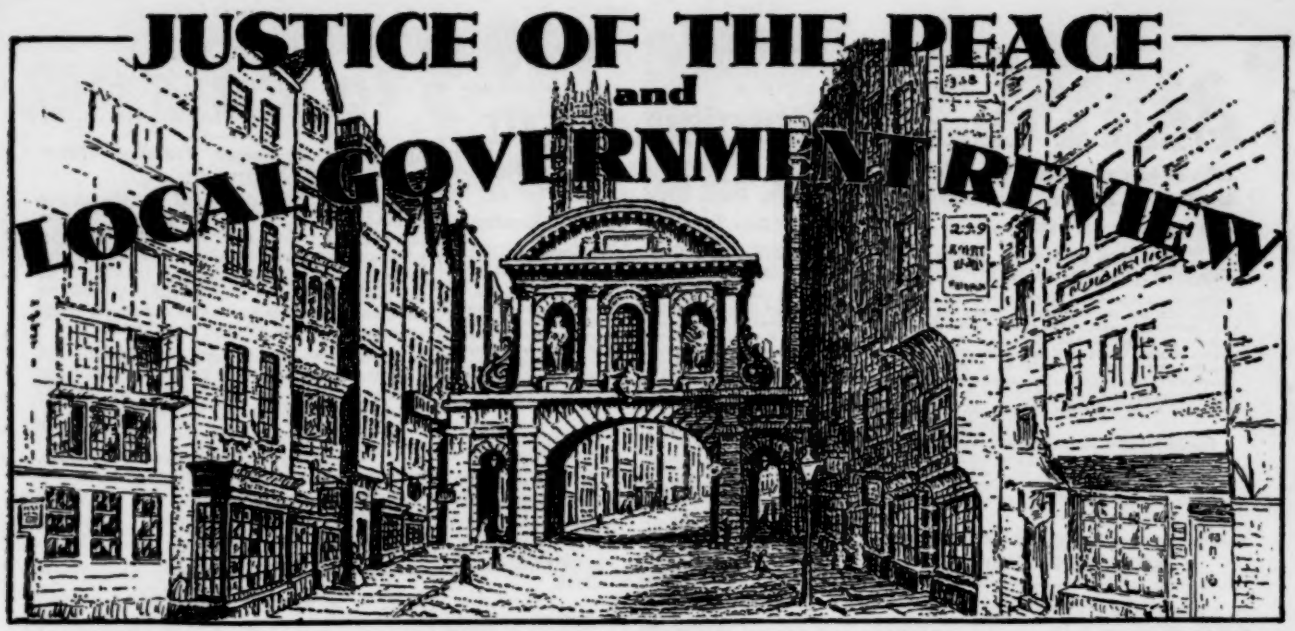

VOL. CXVII LONDON: SATURDAY, JULY 4, 1953 No. 27

CONTENTS

REPORTS

Official & Classified Advertisements, etc.

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

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A LARGE local authority near London invites applications for an appointment as Temporary Legal Assistant for duties in connexion with the promotion of a Parliamentary Bill. Previous experience of Parliamentary work essential. Salary not exceeding £900 a year according to experience. Applications, stating age and qualifications, and giving details of experience, together with the names and addresses of two referees, to Box No. D.12, Office of this Newspaper, not later than July 18, 1953.

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Senior Assistant Solicitor

APPLICATIONS, supported by testimonials, are invited by July 15, 1953, for the above appointment from candidates with suitable qualifications. Local government experience essential. Salary Grade IX (£815–£935).

CHAS. S. ROBINSON,
Town Clerk.

Town Hall,
Blackburn.

LANCASHIRE No. 8 COMBINED PROBATION AREA

Female Probation Officer

APPLICATIONS are invited for appointment to the position of full-time female probation officer in the above Area.

The appointment will be in accordance with the Probation Rules and the person appointed will be required to submit to a medical examination.

Applications should reach the undersigned on or before July 15, 1953.

J. H. WHITTINGHAM,
Clerk to the Committee of the above Area.

Borough Justices' Clerk's Office,
The Courts,
Bolton,
Lancs.

GOLD COAST LOCAL CIVIL SERVICE

Government of the Gold Coast

THERE is a vacancy in the Local Civil Service of the Gold Coast for a Regional Welfare Officer in the Department of Social Welfare and Community Development.

Candidates should possess a degree in social studies plus practical experience or a degree in any subject plus a diploma or certificate in Social Science. Ability to train others in Social Science is required. The candidate appointed will be Principal of the School of Social Welfare, where candidates for appointment as subordinate staff of the Probation, Welfare and Mass Education Sections of the Department of Social Welfare and Community Development are trained. The Principal will also run courses for voluntary leaders and members of the public, and may sometimes be required to take charge of a Welfare Region.

Salary £1,460×£60—£1,880. Appointment on temporary agreement for two tours of 18-24 months each. Lump-sum gratuity on satisfactory completion of services. Quarters at low rentals. Free passages for officer, wife and three children under thirteen. Generous home leave. Income tax at low local rates.

Application forms and further particulars available from The Director of Recruitment (Colonial Service), Colonial Office, Sanctuary Buildings, Great Smith Street, London, S.W.1, quoting reference CDE. 130/13/04. Closing date for receipt of initial enquiries, July 24, 1953.

CITY OF PLYMOUTH

Appointment of Female Probation Officer

APPLICATIONS are invited for the above whole-time appointment. Applicants must be not less than twenty-three nor more than forty years of age, except in the case of serving officers. The appointment will be subject to the Probation Rules, 1949 to 1952, and will be superannuable, the successful candidate being required to pass a medical examination.

Applications, stating age, qualifications and experience, together with not more than three recent testimonials, must reach the undersigned not later than July 17, 1953.

EDWARD FOULKES,
Secretary of the Probation Committee.

Greenbank,
Plymouth.
June 19, 1953.

COUNTY OF ESSEX

Appointment of Assistant Prosecuting Solicitor

APPLICATIONS are invited from solicitors with experience of advocacy. The person appointed will be required to conduct prosecutions in the Magistrates' Courts of the County on behalf of the Police and the County Council. He must also have ability to draft briefs and instruct counsel at Quarter Sessions and Assizes. His salary will be fixed in accordance with his qualifications and experience but will not exceed £935 a year. Post superannuable. Medical examination necessary. Canvassing forbidden. Applications, stating age, education, qualifications and experience, with typewritten copies of not more than three recent testimonials (which will not be returned) should be sent as soon as possible to the County Clerk, County Hall, Chelmsford.

BOROUGH OF SUTTON COLDFIELD

Legal and General Clerk

APPLICATIONS are invited for the position of Legal and General Clerk in Grade III rising to Grade IV of the A.P.T. Division. Applicants must possess a sound knowledge of conveyancing and contract law ; a general knowledge of local government administration will be an advantage.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, a satisfactory medical examination, and one month's notice on either side.

Applications, giving age, qualifications and experience and the names and addresses of three persons to whom reference can be made, must be delivered to the undersigned in sealed envelopes marked " Legal and General Clerk " not later than Thursday, July 9, 1953.

The Council are prepared to assist the successful applicant in the provision of housing accommodation if required.

Canvassing, directly or indirectly, will disqualify.

R. WALSH,
Town Clerk.

Council House,
Sutton Coldfield.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

VOL. CXVII. No. 27 LONDON: SATURDAY, JULY 4, 1953

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NOTES of the WEEK

Army Characters

At p. 495 of last year's volume and several occasions in 1949 we referred to the unsatisfactory position, from the point of view of the courts, when a soldier is convicted of an offence and the court asks about his character. The average civilian is not acquainted with the standards adopted by the military authorities as to a man's character on discharge or, for the matter of that, as to his character while serving.

A recent example occurred at Hereford Assizes, when a postal servant, a former warrant officer in the Army, was sentenced to three years' imprisonment for stealing postal packets. It was stated that the man had been court-martialled for theft and forgery and reduced to the ranks, but his Army discharge papers bore the words " Conduct, very good."

According to *The Times* of June 19, Hilbery, J., said he would send the discharge book " to another quarter," and added " This is shocking. This man gets into the postal service on the strength of these papers signed by an officer who must have known it was wrong. I hope this matter will be looked into. Without some explanation as to the statement on this discharge book, it seems almost unbelievable."

No doubt the man's conduct as a soldier may have been satisfactory up to the time of his downfall, but in civilian life a man guilty of stealing and forgery would be considered to have lost his character. It is well that such a man should be given a chance of honest employment by someone willing to give him a chance, but a prospective employer ought not to be misled by a character which, according to ordinary standards outside the Army, is not in accordance with the facts.

Comment on Failure to Call Defendant's Wife

It is generally known that the prosecution is not entitled to comment on the fact that the defendant in a criminal case has not given evidence. Consequently, it is very rarely that any mistake about this is made. What is easier to overlook, perhaps, is the fact that the Criminal Evidence Act, 1898, imposes a similar prohibition in respect of the failure of the defence to call the defendant's wife.

In *R.* v. *Allerton* (*The Times*, June 18) one of the grounds of appeal to the Court of Criminal Appeal was stated to be that during the course of a speech by counsel then appearing for the Crown there was a reference to the failure of the appellant's wife to give evidence. The trial judge called the attention of counsel for the defence, and gave him an opportunity of asking for a fresh trial. Counsel for the defence advised the appellant against this course. In view of this, the Court of Criminal Appeal dismissed the appeal.

If such a situation should arise in a magistrates' court, where the bench has to act as both judge and jury, the magistrates would no doubt be acting with propriety if they offered to adjourn the case for a hearing before a differently constituted bench: the defendant, especially if legally represented, would probably prefer to go on with the case, trusting in the magistrates not to be influenced by the comment.

It is, of course, in no way irregular for a judge or magistrate to comment on the failure of the defendant or his wife to give evidence, but as is stated in *Stone*, p. 334, note (*d*), there is authority for stressing the importance of exercising great care in so commenting. Inadvertent comment by counsel for the prosecution on the fact that the prisoner's wife was not called for the defence, does not make the trial a nullity if it is disregarded by the jury, *R.* v. *Dickman* (1910) 74 J.P. 449.

Right to Use Towpath

Members of the public who enjoy a riverside walk generally believe they have a perfect right to walk along a towpath without interruption, as if it were a public right of way. Occasionally they are surprised and annoyed to find that pedestrians are expected to make a detour, their passage being prohibited by notices. In fact, the position is not simple, and it cannot be assumed that everyone has a right to use a towpath as a public footpath. At a recent meeting of the Berkshire County Council the subject was raised, and a member said that in a good many instances towpaths had been used by the public for many years, and he contended that in simple law a right-of-way had been acquired. Another member observed that it was a very intricate legal point and he did not think it had yet been decided whether a towpath is a right of way except for towing a barge with a horse.

Another point that might be debated is whether the towing must be by means of a horse, or whether a man towing a punt for example, not for business but for pleasure, has the same rights.

At 16 *Halsbury* 234 it is stated that a highway may be dedicated only for one or more of the recognized kinds of traffic, and the bank of a navigable river may be dedicated for towing purposes only; and at p. 236, that a quay, a towing path, or a sea wall or embankment, may be dedicated as a footway subject to the right of persons towing vessels, or persons responsible for the maintenance of the quay, etc., temporarily to obstruct the public or even to alter the highway if necessary for the better execution of public duties.

It is quite true, then, that a question about the public right of user may well prove intricate and involve a good deal of inquiry.

Report of the Hull Children's Officer

Children's committees and children's officers appointed under the Children Act, 1948, are still working out a policy and improving methods as they gain experience. A point in the report

of Mr. Henry Norris, children's officer for Kingston-upon-Hull, is that it would be preferable to augment the boarding-out staff with a view to finding more foster homes, than to use them merely as visitors to children already placed in homes, since although boarding-out is admittedly the best as well as the cheapest method of dealing with the children concerned, everything depends upon the choice of the right foster parents. Such a choice involves careful inquiry undertaken by trained and specialized officers.

Co-operation between the staff of the children's department and the education authorities has considerable possibilities. This report refers to an interesting experiment in conjunction with eight students of University College, Hull, all graduates and prospective teachers. They undertook child studies of selected children. " Seven of the children were boarded out and the eighth was in the children's homes. Three of the children were educationally retarded due to early difficulties ; three others were possible grammar school pupils who needed help in special subjects ; one was of average ability but lacked confidence at school, and one, a boy of almost fifteen, chiefly needed vocational guidance. All were coached individually and in every case the student developed an extremely good relationship with child and with foster parents."

There has been a certain amount of scepticism as to the efficacy of treatment at attendance centres, but the experience of Hull is encouraging : " The general standard of discipline and work required has been maintained and, on the whole, the effect of attendance at the centre on the boys has been satisfactory. A tradition of serious application to all instructions has been built up and newcomers to the centre are soon informed by the others of the way in which they are expected to behave. This in itself is an achievement, as the majority of the boys ordered to attend the centre have very little experience of training in obedience and respect. . . . There is no doubt that of the twenty-nine boys who have been ordered to attend during the year, some, at any rate, if not the majority, would have found their way to approved schools had there been no attendance centre."

Lincolnshire Probation Report

An increased use of the probation system may be taken as an indication that the experience of the courts concerned has led them to place confidence in the system and in the officers engaged in the work. This is a point made by Mr. J. Arundel Simpson, principal probation officer for the Lincolnshire Combined Probation Area. There was in 1952 a substantial rise in the number of probation orders made although there was no increase of crime in the county.

The attitude of probation officers towards the additional burden laid upon them in the field of after-care is reflected in this as in other reports. It is recognized that the most difficult time for the man who has undergone imprisonment or other detention is likely to be immediately upon his release, and this is where the probation officer comes in. As this report states : " This type of service needs much patience and understanding on the part of the probation officer, but he is strengthened by the knowledge that it is very worth while."

In addition to a large number of reports supplied by probation officers to the courts, 116 reports were submitted to medical officers and psychiatrists to assist them in their diagnosis in difficult cases remanded for special medical reports for the courts. These reports have proved valuable especially to prison medical officers.

There is a favourable comment on the amendment of r. 51 of the Probation Rules, 1949, which requires a probation officer to keep in touch with the family and home of a probationer whilst he is temporarily not residing there : " This is particularly helpful in the case of a boy or girl who is residing in an approved home or hostel on the terms of a probation order. It may well be that the home conditions may have contributed in the main towards the delinquency of the probationer. It is appropriate that during this time he or she is undergoing training at an approved home or hostel, some effort should be made to improve the conditions and outlook of the parental home."

Leicester Probation Report

An encouraging sign of the times is the increasing measure of co-operation and understanding between social workers, official or unofficial, who may be dealing with the same people at different times and in different circumstances. Probation officers are helped and encouraged when they feel that their work is understood and appreciated by police, prison officers and officers of local authorities. On their part, they are instructed and benefitted by understanding the work of those others.

In his report for 1952, Mr. Kenneth M. Fogg, principal probation officer for the City of Leicester, states that an experiment was made in the visit of four male officers to assist at the Lowdham Borstal Institution House Camps at Castleton in Derbyshire in June. " All claim to have benefitted from a very interesting experience and are grateful to the Probation Committee for enabling this."

Dealing with borstal after-care work the report says : " Whenever convenient to do so Probation Officers are making personal links with borstal institutions and there meeting the lads who will eventually come to them for after-care. Closer touch is also being maintained with the lads' homes before licence actually begins so that, generally speaking, the lad gets away to a better start on discharge from the institution. This procedure is an investment as the early stages of the licence period are usually the most testing."

Manchester Weights and Measures Department

The worst feature of the report of the chief inspector of weights and measures for the City of Manchester is the state of affairs relating to the sale of coal and coke. Such fuel becomes more and more expensive, and so there is more to be gained by dishonest practices. There were seventy-five prosecutions, most of them of carters, and nineteen defendants were sentenced to imprisonment. As the report admits, employers find it difficult to guard against sales of short weight by their servants, but there is a duty upon them to exercise diligence, and some of the larger concerns have appointed supervisors especially to keep checks on retail deliveries both before and after leaving the sidings. To the customer, Mr. J. R. Roberts offers a piece of sound advice : " Above all, the temptation to buy the odd bag or so from a carter should be resisted for it is fairly certain that extra ' rationed ' fuel offered in this way has been acquired by delivering short elsewhere."

What is described as the most barefaced fraud involving an almost unbelievable shortage is thus described : " A delivery note for two tons of coke was handed in at a city hotel where the staff were too busy to supervise the unloading of the coke into the cellar. As a result only half a ton was delivered and the driver and his mate proceeded to sell the remaining three-quarters of their load. Fortunately their progress was being observed by officers of the department and they were later dealt with at court."

Some seven *per cent.* of all the weighing appliances tested were found to be incorrect, but as in most instances the error was small, and due to ordinary wear and tear, the position is not unsatisfactory, and simply shows how desirable it is from everyone's point of view that periodical tests should be made. Much the same can be said about petrol pumps.

Movable Dwellings

The control of camps and caravan sites is one of the matters which is giving special concern to the Council for the Preservation of Rural England, and constitutes one of the biggest problems in rural areas, and particularly in coastal districts and those which possess places of outstanding beauty. The legal position is complicated because they may be dealt with under two separate Acts—the Public Health Act, 1936, and the Town and Country Planning Act, 1947. The Public Health Act deals with them from the point of view of "nuisance" and the Town and Country Planning Act from the aspect of their siting and use. The County Councils Association has suggested to the Ministry of Housing and Local Government that the position would be improved by the repeal of s. 269 of the Public Health Act, 1936, and the substitution of a provision enabling county boroughs and county district councils to make byelaws prescribing minimum standard public health conditions in relation to all movable dwellings leaving it to the local planning authority to decide the extent to which land should be used for this purpose, and the localities in which it should be used. The Association has asked the Minister to introduce amending legislation to give effect to these suggestions.

Questionable Equalization

The increasingly substantial benefits received by others are probably as much responsible as the absence of any for themselves in rousing some of the southern counties and London boroughs to make representations of unfairness in the operation of financial provisions of the Local Government Act, 1948. The counties are concerned about Exchequer Equalization Grants under Part I, and the boroughs about the scheme under s. 10. This is, of course, an appropriate time for representations having regard to current investigations by a committee appointed by the Minister of Housing and Local Government, notwithstanding its somewhat limited terms of reference, especially that any proposals for variations must keep within the bounds of moneys available from the Exchequer under existing legislation; so, any new or larger draughts from the springs of financial equity will have to be compensated by less for others, who, whether or not fully entitled to their present measures, would hardly suffer a reduction without protest. The hopes of local authorities whose relative financial position was materially worsened under the Act of 1948, passed by an administration enjoying vast and unharried supremacy, should not be pitched very high; a microscope may be more useful for finding the benefit than a large vehicle to carry it away.

Almost certainly, perturbation at the operation of the Act of 1948 would have been expressed from some quarters when any investigation of the sort contemplated by s. 14 took place, whatever were the current environmental circumstances. But a special and unforetellable circumstance has arisen since 1948 in the inflation of the amount of rates and poundages as a converse of a marked decrease in the value of the pound, reflecting wholesale and retail price indices higher, on average, by roughly forty *per cent.* Nominal incomes have risen, it is true, again on average and also roughly, by approaching forty *per cent.* The trouble with these, as with all averages over a period, is that they conceal redistributions, in the present case probably (no readily comparable data are available) of real spending or purchasing power between different parts of the country and individuals. Also, a time-lag between higher prices and incomes and a counterpart rise in local rates dissociates a grudgingly acceptable cause from an unpleasant effect which is of a nature (higher rates) unreadily borne for almost any reason at any time.

An impression of unproportional shift of burdens derived from a comparison of rate credits in respect of Exchequer Equalization Grants as between 1948-49 (when the Act of 1948 became operative) and 1953-54 in county boroughs and administrative counties is over-emphatic, especially in the counties where grant partly attributable to county districts' expenditure is credited from the county councils' precepts, which may benefit to an extent greater than that appropriate to a county council's own expenditure in the process of conveying benefit due to constituent county district councils as a whole. The over-emphasis is inherent in the formula and mechanism of the provisions relating to Exchequer Equalization Grants because the grants represent rate income on a national rateable value equal to the deficit below the national average but the credit is expressed as a poundage on the actual rateable value.

The complaint of the grantless southern counties really goes back to fundamentals of the 1948 Act, including disuniformity in valuations from which qualifying or disqualifying average rateable values are drawn, though the complaint was more likely to arise, as it has, owing to altered economic conditions having made an Exchequer Equalization Grant a more valuable relief from financial pressure than it could hardly have been expected to be when it was originated. There is no doubt that county boroughs and counties where pre-1948 valuation functions were discharged with greater efficiency have suffered an increasingly heavy penalty for their virtue during recent years of rising prices, expenditure and local rates. It may also be that redistribution, in various ways including public social services, of the national income has falsified the premises of the main financial provisions of the Local Government Act, 1948, and that a plain and straightforward Population Grant, with some weighting for sparsity (leaving disproportions in the number of children to the education grant) is now all that is necessary, and would be conducive to greater equity, general efficiency and wider satisfaction.

Steps Towards Reorganization

Decisions made and being made by the associations of local authorities representing county, urban district, rural district and parish councils, and individually by authorities in membership of those associations, in relation to the report and recommendations on local government reorganization prepared jointly by representatives of the associations, seem likely to provide considerable agreed substance for a local government reorganization measure which the Minister of Housing and Local Government has said might be introduced in 1955. Substantial agreement within these important sectors of local government would clearly exert material influence on the prospective status of non-county boroughs and on the form and extent of county borough government; the weight and pressure brought by that agreement against the central government in connexion with a reorganization measure could transform proposals emanating from the association of municipal corporations from constructive possibilities with equality of odds in favour to defensive alternatives with longer odds against.

A system of local government comprising authorities whose administrative complex of geography, people, functions and financial resources is of countless permutation never has and never will provide an exception to the general rule that cleavage of interest is bound to occur whenever the circumstances of two or more persons or bodies are different. Fortunately, a place for compromise is usually found, not necessarily less estimable for being a compulsory choice to meet a common danger, in the present case to obviate the imposition of a solution unpalatable to most, if not all, of the parties. The compromise reached between administrative counties and districts gives neither class of authority all they have become accustomed to in the last decade nor that they would like. A chink would be opened in the

door to delegation by a county council, at its discretion, of principal services in sch. 1 of the joint report, county districts would be assured of retaining exclusive responsibility for thirty-one sets of functions in sch. 2, and a county district council could be given or obtain some or all of eleven sets of functions delegable under sch. 3, including education, health and highways, apart from high policy.

Before new provisions for the distribution of functions within counties became operative, however, a review of the structure of administrative counties by the Minister of Housing and Local Government is contemplated by the report, in part within " great conurbations " proposed to be defined by statute for some purposes not remarkably clear beyond the elimination of county boroughs. On the other hand, the county boroughs due for elimination, or modification, as such, may thus have been presented with unforeseen opportunities to promote a case, primarily for retention of existing autonomy, and, secondarily, in a climate favourable to rewards for commonplace perspicuity, for an extension of domain by that conquest of adjacent districts which is antithetic to motives and expectations underlying the joint report.

The outcome of a review of county district organization by county councils is naturally doubtful, for principles unexceptionable in the mass have many interpretations collectively and when some are applied in relation with various others ; also, the concurrent review of "great conurbations," yet to be defined, by the Minister could have unexpected results. The balances between anticipation and realization in relation to areas without and within the " great conurbations " may eventually be struck on sides of the account opposite to those visualized. County districts without may remain mainly unchanged in area in order to maintain, as far as practicable, synonymity between every distinguishable community and a representative council, but those within whose physical boundaries have been obliterated by contiguous building development may have more difficulty in sustaining treatment as communal entities. Always, there will be the problem of component proportions of the somewhat hostile qualities named in the glib phrase " effective and convenient." Organization and administration are most likely to be accepted as convenient when they are effective, but seldom when they are not however great may be convenience as such. Therefore, exponents of modern administrative technique will hope for a structure which gives more rather than fewer opportunities for functional specialization within each service ; this cannot possibly be achieved in local government any more than anywhere else if identical operations are conducted in a multiplicity of cellular compartments largely for illusory convenience. Therein, lies an important virtue of the two-tier structure proposed by associations of local authorities. In particular, it may be hoped that division down to quadruplicate or more of some unusually large but nevertheless effective administrative units may be avoided, that the fetish of autonomy will not disrupt established homogeny, and that means will be found of extending, rather than diminishing, the relatively uncostly assistance derivable in rural areas from *nexus* with urban.

ADDING COUNTS TO THE INDICTMENT

In *R.* v. *Phillips*, reported at [1953] 2 W.L.R. 868, the appellant had been charged before the justices with having unlawfully made a false declaration when applying for a motor-car licence, contrary to s. 9 of the Vehicles (Excise) Act, 1949, and he had elected to go for a trial by a jury under s. 17 of the Summary Jurisdiction Act, 1879. At the trial before quarter sessions he was not charged with an offence under the Vehicles (Excise) Act, 1949, but on an indictment containing three counts charging him with offences under the Perjury Act, 1911. He was convicted on that indictment, but was granted leave to appeal to the Court of Criminal Appeal which quashed the conviction. In the course of his judgment, Lord Goddard, C.J., referred to s. 2 of the Administration of Justice (Miscellaneous Provisions) Act, 1933, which provides that although justices may have committed a defendant for a certain offence the court can allow a count to be added if the evidence on the depositions shows that there is another offence disclosed, and to the argument of the prosecution that accordingly charges under the Perjury Act could properly be put forward although the appellant had been sent for trial charged with an offence under the Vehicles (Excise) Act. With reference to this argument Lord Goddard stated : " I will assume that that is perfectly right, but nevertheless this court cannot approve of such a course being taken because in reality it is making the option that is given to a defendant by s. 17 of the Summary Jurisdiction Act, 1879, into something in the nature of a trap." He subsequently added : " This court cannot approve of the substitution of another charge for the charge for which a prisoner was originally before the justices in any case where quarter sessions only obtain jurisdiction by reason of the prisoner having exercised his option under s. 17."

The interesting question arises as to the view the Appeal Court would have taken if the indictments had not been added at quarter sessions but if the defendant had been committed by the magistrate in respect of the offences under the Perjury Act in view of the evidence disclosed before them. On the authority of *R.* v. *Brown* (1894) 59 J.P. 485, the courts have long acted on the understanding that, whether the defendant was being committed for trial in respect of an indictable offence *per si* or in respect of an offence " deemed to be an indictable offence " under s. 17 of the Summary Jurisdiction Act, 1879, the defendant could be committed for any offence revealed in the depositions. In this case the defendant elected trial by a jury in accordance with s. 17 of the Summary Jurisdiction Act, 1879, and was subsequently indicted for further offences in addition to the one in respect of which he had originally appeared before the magistrates. Objection was taken to the indictment on this ground, but the Court of Crown Cases Reserved overruled the objection. In delivering the judgment of the Court, Lord Russell of Killowen, C.J., pointed out that where a defendant is sent for trial he " . . . has full and ample notice before his trial of the character of the offences with which he is charged. When a case is sent for trial, the real question to be considered is whether the evidence on the hearing of the summons covers and justifies the counts of the indictment."

Since *R.* v. *Brown*, *supra*, was not considered in *R.* v. *Phillips* it would seem that its authority would still justify a magistrates' court in committing a defendant, who elects trial by a jury under s. 25 of the Magistrates' Courts Act, 1952, for any offence revealed in the depositions, but since the decision of the Court of Criminal Appeal seems based, not so much on the technical correctness or incorrectness of the action taken as on the consideration that the right of trial by a jury should not appear to operate as a " trap," it would seem that an appeal against such an indictment should stand a good chance of success.

"I REPRESENT THE DEFENDANT, YOUR WORSHIPS"

By PAUL T. W. BUTTERS

If there was any justice in the world, witnesses could be placed neatly in two classes—the Good and the Bad, all the Good ones naturally being yours and all the Bad ones belonging to the other chap. But it is nothing like as simple as that: they can be divided and sub-divided to such a bewildering extent that if he ever had time to consider them with all the care they merited, the average practising advocate would stand aghast before retiring hastily to a less exacting profession.

For the average magistrates' court advocate—the overworked G.P. of his profession—has to deal with them all at some time or other, and when you pause to consider that they are all in the main complete strangers to him, all with their own particular idiosyncrasies ranging from the half-witted to the positively criminal, you will appreciate that he is faced with no mean task. Add to this the fact that they embrace every profession and business known to man—and not infrequently those known more especially to the police—and that task becomes an almost impossible one. When questioning his witness, the advocate must know at least as much as the witness of what he is cross-examining about—or—and this is even more important—he must look as if he does.

When a doctor is in the box, his cross-examiner is expected to know as much about medicine as the witness; if a building contractor is there he must know how to build a house or, if the witness happens to be a demolition contractor, how to knock it down; if, say, the County Analyst is doing his stuff for the prosecution, your omniscient advocate must know to the last crumb what are the legal contents of a sausage; or if, on the other hand, it is an Expectant Mother he is dealing with, then he must know what is the shortest (or maybe the longest) period of gestation the law considers to be reasonably probable. All of which means that the average advocate has to do a bit of reading in his spare time if he is to keep abreast of his subject.

And when you consider that the examination and cross-examination of witnesses is but one aspect of an advocate's job, you will realize why most of them are prematurely grey, and if a young man on the threshold of his career prefers to become an engine-driver he should not be discouraged, for he shows considerable sense. To become an efficient engine-driver it is presumably sufficient to know how to drive an engine: to become an accomplished advocate you have to know a lot of other things as well. In a word, to be adequately equipped for his job, an advocate should have the Wisdom of Solomon, the Patience of Job, the Hide of a Rhinoceros, and an iron constitution. Which is asking rather a lot of any man.

Of course, the job has its compensations—as those people who are not advocates are always ready to point out. It is interesting, of course: so is a good book. It is always crammed with incident: so is the average football match. You see human nature in the raw: but you can always go to the cinema.

Still, I suppose, generally speaking, witnesses are not a bad lot. At least, some of them aren't. The Truthful *do* outnumber the Untruthful but that is not such a help as you might suppose when you consider into how many bewildering categories even the Truthful fall. The Nervous, the Masterful, the Knowledgeable, the Humorous, the Hesitant, the Awkward, the Stupid and the Downright Dumb—they are all there and, somehow or other, the advocate (with no previous knowledge of them) has to decide to which category they belong. And that is only the the beginning, for having decided that, he has to make up his mind how to deal with them.

One of the commonest fallacies is to suppose that the Untruthful Witness is the easiest to cross-examine. A quiet beginning, a pause, a significant glance at the Bench, a few quick questions slipping rapier-like through the witness' defence, another pause (a pregnant one this time) another significant glance at the Bench, a final dramatic question and the unhappy witness is reduced to a gibbering wreck, stripped of all pretence, a self-confessed liar. That is the dream of every self-respecting advocate but, more often than not, it ends as a nightmare, and it is the advocate who is having it. The trouble is that the accomplished liar has prepared the ground carefully beforehand—not always successfully, of course, and an unexpected question does occasionally send him sprawling, but not half so often as it ought to.

Not the least difficulty lies in identifying the witness who is telling the truth and the one who is not. It is fatal to try and do it by watching his demeanour in the witness-box. A will swear one thing: B will assert exactly the opposite. A will read the oath slowly and deliberately as if in solmen prayer. B will mis-read it twice and race through it the third time as if he was reading from a Bradshaw. A will look you straight in the eye and his answers will be quiet but firm as those of a God-fearing man should be. B will hesitate, look first at his feet and, finding no inspiration there, up at the ceiling, but never at you: he will blush a deep scarlet, trip over his feet, contradict himself a dozen times and little drops of perspiration will bead his guilty brow.

But, of course, this is not a fair example: we are propounding the easiest case of all to decide. A is the liar every time, and we are told in all the text books (and they are many) that in dealing with him the element of Surprise is our strongest weapon. Deadly, Surprise is: A has no possible way of dealing with A Surprise.

Which is all very well if you can think of one.

Again, they (those text books again) say that to be convincing a liar must lie consistently from first to last. The trouble is, of course, that he usually does.

Almost as destructive to the self-esteem of the advocate is the Reluctant or Unconscious (as opposed to the Deliberate or Conscious) Liar. This is the unhappy man who is anxious to please everybody and manages to please nobody. To do him justice (although he does not deserve it) he is not really a liar at all, but simply one who is anxious to get out of the witness-box as quickly as possible, and in his simplicity he believes that the best way of doing that is to agree with everybody.

So he agrees with everything you suggest to him which is very satisfactory indeed until you hear him, a few moments later, agreeing with the other chap as well. And that is not half as difficult as it sounds. A few—"Well—er—if you put it like that—yes, I suppose it would be"—or—"Well, now, looking at it from that angle, I suppose it *is* possible"—and the job is done. And there you are—back where you started and not half such a good advocate as you thought you were.

The Knowledgeable Witness is, on the other hand, the easiest of all to deal with. He is an earnest student of *Everyman's Own Lawyer*, reads the legal columns of the Sunday newspapers, and is invariably an authority on party walls, boundary fences and drains. He knows a little about everything and everything about nothing, and there is one infallible way of dealing with him: it never fails. Let him talk. Prompt him a little now and then if he shows any signs of faltering (which is unlikely) but

otherwise, let him talk. In under five minutes he will have antagonized the bench and (perhaps even more important) the clerk, and everybody else. Resist the temptation to argue with him and he will destroy himself.

The Humorous Witness, though apt to be more irritating than his Knowledgeable brother, is no more difficult to deal with. He is always very conscious of his position as The Life and Soul of the Party. He has a reputation for spontaneous wit to maintain, and in maintaining it you can rest assured that he will make the most awful fool of himself, for a bench of magistrates is quick to take offence at anything which is in any way inconsistent with their dignity. And quite right, too. Just one word of warning. On no account join in the fun and games ; maintain a grave and censorious demeanour throughout or you will be in trouble yourself.

The Awkward Witness can be a nuisance until you master the technique of dealing with him. Then it is simple enough. He is the type who, of necessity, disagrees with everything you say. If you are a Conservative, he is certain to be Labour ; if you favour the Wanderers, he supports the Rovers ; if you think it will rain, he forecasts a drought. In extremity, he is prepared to assert that the earth is flat unless you happened to say it first.

When you have tumbled to the fact that he *is* an Awkward Witness, the rest is easy. You simply ask him the wrong questions and you always get the right answers. It's as easy as that.

Police Witnesses present a little more difficulty until you have learnt their language. Though they do not actually give their evidence in a foreign tongue, they certainly give the impression of doing so when you first make their acquaintance. And they deliver it without any punctuation at all which is a little disconcerting until you get used to it. For them, today is the " inst." ; yesterday the " ult." and tomorrow the " prox." ; they never " go " but always " proceed " and they always " apprehend " a person or a fact. Furthermore, they always ask a suspect if he " would care to explain " what he was doing on the night of the 8th inst. Once you have mastered all that and put in your own commas and full stops, the rest is comparatively easy. There is, of course, one small point which is apt to make all this knowledge a little superfluous. No Policeman, from the Super to a common or garden Bobby, ever makes a mistake ; he *never* contradicts a colleague and he *always* tells the truth, the whole truth and nothing but the truth.

So, when you come right down to it, it's hardly worthwhile cross-examining them at all.

One final word of advice. An advocate should preserve a placid and unruffled demeanour throughout. If he is rude to his opposite number (as he frequently is) he should be politely or frigidly rude ; and if, on occasion, he feels an urgent desire to throw an inkwell (preferably full) at a witness or, to take an extreme case, at the chairman of the bench, he should suppress it unless he is on the point of retirement. He should always be satisfied to ask questions only and *never*, in any circumstances, be tempted to reply to a witness with a witty sally because it never sounds witty, anyway, and rarely is. It is a good rule to remember that the only verbal retorts worth while are those you think of afterwards.

So now you know. Or—do you ? I have just read through what I have written and suddenly I feel very discouraged. As a consequence, I am seriously considering amplifying my opening gambit to the bench—thus :

" Your Worships, I represent the defendant—God help him ! "

AN A.B.C. OF STAMP DUTIES—II

(*Continued from p.* 412, *ante*)

Annual Contracts or *Contracts for the Supply of Goods or for Work :*

See " Agreements under hand " for the rates of duty, but it may be as well to consider whether all the annual contracts that local authorities prepare are of any value while tenderers still insist on price fluctuation and " while stocks last " clauses. Their value is either in (*a*) making sure there will be no unexpected price increases, (*b*) making sure that during the year the supplier will be able to meet all anticipated demands, and (*c*) if possible, obtaining a discount, or lower price, for ordering in bulk. Only to the extent that one or more of these advantages does obtain is it worth the trouble and expense of inviting tenders and preparing contracts if the standing orders of the authority otherwise would not require it. For, assuming the standing orders to be in the form of the Model issued by the Ministry of Housing and Local Government, then, if the individual orders were each for goods or work under £100 in value, no formal document would be needed. This, however, should not be made a device to avoid a formal agreement for what is truly a single contract but with delivery or work in stages as required. But if none of the advantages (*a*), (*b*) or (*c*) above are to obtain, and it is not certain what quantity, of goods or work, will be required during the year, or that prices will not fall, then it is best to postpone ordering until each occasion that the need arises and the dispensation in standing orders can properly be used. Then, where the subject matter of the contract is work, the stamp duty, albeit small, will be saved. (If it were sale of goods and the agreement under hand, it would be exempt from duty, anyway.)

Assignments :

Stamp as conveyance on sale.

Bond, Covenant or Instrument of any kind whatsoever,

being the security for sums of money to be paid at stated intervals : This Head, unlike that for Mortgage, Bond or Covenant, includes documents under hand, as well as those sealed, by reason of the phrase " instrument of any kind whatsoever," but it only covers agreements where the term is indefinite or where it is definite but the document is under hand. Where it is definite, and under seal, the payment is a fixed one, being the total of those payable at intervals, however regular, throughout the term, and the rate of duty is that for a Mortgage, Bond or Covenant (q.v.). Where the term is perpetual, *e.g.*, an indefinite term where there is no power of revocation (extrinsic evidence is admissible to show the intention of the parties), the instrument again will be taken out of the Bond, Covenant, etc., Head to be chargeable as a conveyance with a twenty year total of the annual payments taken to be the amount of the consideration.

The commonest examples of documents providing for regular payments, are leases, licences and easements and all three are separately dealt with below.

Rate of Duty : 5*s.* for every £5 of the regular payment.

Bonds : Guarantee or Fidelity :

If for £200 or less : Mortgage rates of 5*s. per cent.* Otherwise a fixed duty of 10*s.*

Contracts for Sale :

See Agreements for Sale.

Contracts for Services :

See Agreements for Services.

Contracts for Supply of Goods :

Draft under hand to be exempt from duty.
See Agreements under Hand.

Contracts for Work :

See either Agreements for Services, Agreements under Hand, or Deed of any Kind.

Conveyances on Sale :

NOTE 1. If consideration is regular payments, capitalize up to twenty years. (Section 56 (2) of the Act of 1891.)

2. If a prior contract for sale (*q.v.*) has been stamped *ad valorem*, 6*d.* agreement or 10*s.* deed duty is sufficient.

3. This Head includes every instrument whereby *any* estate or interest in property is vested in any person and therefore includes many of the licences or grants of easement commonly dealt with in a local or public authority's office (s. 54 of the Act of 1891). *See* Bond, Covt., etc., *supra*.

4. Vesting Declarations in cases of expedited completion under the Town & Country Planning Act, 1944, as amended by the Town & Country Planning Act, 1947, sch. 11, must be stamped as the amounts of the compensation payable come to be settled, or at three monthly intervals. (Supposing, of course, that the declaration covers a number of properties.)

Rates of Duty :

1870 Act 6*d.* per £5 up to and including £25.
2*s.* 6*d.* per £25 ,, ,, ,, £300.
5*s.* 0*d.* per £50 thereafter (*i.e.*, 10*s. per cent.*).

1909/10 Act doubled these rates except for £500 or less (*i.e.*, £1 *per cent.*).

1947 Act redoubled them over £1,950 and gave intermediate rates £1,500—£1,950 (*i.e.* £2 *per cent.*).

1952 Act the redoubling applies only over £3,450 (£2 *per cent.*).
£3,000—£3,450 (£1 10*s. per cent.*).
£500—£3,000 remains £1 *per cent.*
£500 or less remains 10*s. per cent.*

In every case, in order to have the benefit of the lower rates, a signed certificate must be submitted, either in or accompanying the conveyance, and having the following form : " It is hereby certified that the transaction hereby effected does not form part of a larger transaction or of a series of transactions, in respect of which the amount or value, or the aggregate amount or value of the consideration exceeds " as the case may be, either "three thousand four hundred and fifty pounds," or " three thousand pounds," or " five hundred pounds." It is important to include this certificate not only in normal conveyances but also in any other instruments chargeable as conveyances on sale such as licences in perpetuity or easements in fee.

Counterparts :

See Duplicate.

Credit Sale Agreements :

(Purchase price is payable by delayed instalments but property passes at once) are not within the special exemption for hire purchase agreements (*q.v.*) (where the goods are only on loan until payments completed and property in the goods does not pass until then) but are chargeable under the Head, Bond, Covenant, etc.

Deeds of any kind

where the subject matter does not come under any other head : 10*s.*

This is straightforward enough but there is a common catch in connexion with this duty to be found under the provisions of s. 4 (*b*) of the Act of 1891 which provides that where the consideration is only partly chargeable with *ad valorem* duty, 10*s.* deed duty is payable in addition to the *ad valorem* duty.

A common example is a lease or licence of premises at a fixed rental or regular charge and a right is given to use certain adjacent extra premises as and when required at so much a time (number of times per year uncertain). *Jones* v. *I.R.C.* (1895), 1 Q.B. 484. The only way to avoid this is to make an assessment of the number of times the additional premises are to be used and increase the fixed rental accordingly, but probably one or other party will stand to lose more than the 10*s.* saved.

And *see* under Lease and Licence.

Duplicate or Counterpart.

The latter term is, of course, used in connexion with leases only and refers to the copy executed by the tenant and given to the landlord.

The full duty, if over 5*s.* is impressed only on the principal document, and the duplicate or counterpart is stamped 5*s.* (a red impressed stamp) and a blue impressed stamp is put on it to show what was the *ad valorem* duty stamped on the original if D/S (for denoting stamp) is written in the margin of the duplicate or counterpart and the original is sent to the Stamp Office with it. This denoting stamp is not required on the counterpart of a lease *if it is not* executed by the lessor ; there the 5*s.* stamp alone is sufficient to comply with the Act.

Easements

or grants of a right or licence : may be either perpetual, indefinite or for a definite limited period.

(*a*) Where the grant is perpetual, *i.e.* indefinite and there is no evidence (even extrinsic is admissible) of a different intention offered by the parties and there is no power of revocation. Such documents are chargeable as conveyances adding twenty years' payments to form the consideration on which the *ad valorem* duty is calculated according to the usual scale. Therefore remember to include the appropriate certificate of value.

It would not be possible, as an easement is an incorporeal hereditament and an express grant must be by deed, to make the grant under hand only, but if the annual payments are not over 5*s.* the duty will only be 6*d.*, anyway.

(*b*) An indefinite, but not a perpetual grant, qualifies for "Bond, Covenant or instrument of any other kind whatsoever " rates, 5*s.* for every £5 of the regular payment. Again no advantage is gained by making the instrument one under hand. It should, however, be considered whether, if the payments are only nominal, they are traditional, merely intended to prevent the acquisition of an indefeasible prescriptive right. If so, they can be dispensed with, as the written grant, *ipso facto*, serves the same purpose. Then, in the usual kind of licence, say to a local church to fix direction signs on a lamp post, the covenants to indemnify the authority and to remove the sign when required would, if the document were under hand, be covered by a 6*d.* stamp.

The periods of payment should be as short as possible, as this will make the amounts smaller and so reduce the duty payable. This effect will not, however, be achieved merely by expressing the rate of payment in terms of a short period if the actual payment period is left longer.

(*c*) As to a definite term, where the agreement is under seal it comes under the Head, Mortgage, Bond, Covenant, etc., and

the rate is 5*s. per cent.* on the total of all the payments to be made during the term.

Where the agreement is under hand the rates are those for Bond, Covenant or instrument of any other kind whatsoever, *i.e.*, 5*s.* for every £5 of the regular payment.

The answer is, as before, to dispense with all payments if that is possible. If it is not, endeavour either to ensure that the agreement is under hand or to make the grant either perpetual or indefinite in term, if that can be done, as it probably can, without endangering the grantor's proper protection.

It will, of course, be observed that the savings available are not great unless the regular payments are out of the ordinary, so that except when settling a precedent for regular use it is not worth spending much time on the matter—especially as the licensee has to bear the stamp duty and it is here assumed that the grantor is normally responsible for drafting the grant. However, consideration for the other fellow's pocket is a good rule, especially if he is a ratepayer and you are employed by the local authority, so the following ascending order of expense may be worth remembering: no payment, perpetual grant, definite term under hand, indefinite term. Where definite term under seal comes depends on the length of the term, as the following table shows.

Instrument	*Duty*	*Consideration*
Bond ..	5*s.*	For every £5 reg. payment.
Conveyance	6*d.*	£5=5*s.* p.a.
	5*s.*	£50=£2 10*s.* 0*d.* p.a.
	10*s.*	£100=£5 p.a.
Mortgage, etc.	6*d.*	£5 in all.
	5*s.*	£75 in all.
	10*s.*	£200 in all.

See also " Lease and Licence," and " Bond, Covenant, etc."

Failure to Stamp :

A document chargeable with duty but not stamped, is subject to payment of the correct duty, interest thereon at £5 *per cent.* p.a. and a £10 penalty before it can be produced in evidence at all, and the court must take the objection whether or not the parties do. Further, a party who should produce a written instrument and fails to do so cannot give secondary evidence as to its contents and if the unstamped document is lost, so that secondary evidence is admissible, the correct duty and the penalty must be paid and payment denoted on any copy used to prove the contents of the original. Where secondary evidence is admissible, a witness may refresh his memory from an unstamped document, subject to the usual requirements of the law of evidence as to the preparation of the document he uses.

As a matter of practice, it is worth noting that, while the strict rule is that the duty and penalty should be paid to the court before the instrument is used in evidence, in fact the solicitor, as an officer of the court, will be allowed to give an undertaking to stamp it, pay the penalty and subsequently produce the instrument to the court. *See also* " Time for Stamping."

Fine :

for not stamping an instrument at the proper time *see* " Penalty " and " Time for Stamping " and also " Failure to Stamp."

Hand :

advantages of signing as opposed to sealing.

See Agreements under hand.

Hire Purchase Agreements.

Not chargeable as Bond, Convenant, etc., nor exempt as relating to goods, but 6*d.* under hand or 10*s.* under seal. (Finance Act, 1907.)

Increment Value Duty or Land Value Tax or Production under Finance Act, 1931,

should be found mentioned in the first margin of Abstracts of Title where the " conveyances " are dated (*a*) between April 29, 1910, and July 18, 1923, (*b*) after September 1, 1931.

In case (*a*), " conveyance " includes the grant of a lease of over fourteen years and the sale or assignment of any interest. By the definition, and by the absence of the specific exception found in the 1931 Finance Act, mortgages would seem to be included but in practice they never were produced.

In case (*b*), it includes the grant of a lease for seven or more years (excluding a mortgage) or the sale of such a lease and the sale of the fee simple of any property.

Note should also be taken of the requirement of production under s. 12 of the Finance Act, 1895, more fully dealt with under the sub-title Local Authorities—special provisions. A local authority must produce under the Finance Acts of both 1895 and 1931.

(*To be continued*)

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 44.

PREVENTION OF CRIME ACT, 1953—THE FIRST PROSECUTION

A twenty-two year old labourer was charged at Dudley Magistrates' Court on June 8, 1953, first, with having with him an offensive weapon, *viz.*, a dagger in a public place without lawful authority or reasonable excuse, contrary to s. 1 of the Prevention of Crime Act, 1953, and secondly, with using threatening behaviour whereby a breach of the peace was likely to be occasioned, contrary to s. 5 of the Public Order Act, 1936. Both offences were alleged to have been committed at Dudley on June 7.

For the prosecution, it was stated that at approximately midnight on Saturday, June 6, a man, his wife, daughter and son-in-law were standing talking together in the market place at Dudley when the defendant was seen close by struggling with another man. The defendant was seen holding a knife in his right hand and brandishing it about. He made several attempts to strike the son-in-law, who was holding a child in his arms. The family, who were complete strangers to the defendant, overheard the man with defendant say: " That is not the man; why take it out of him? " No words had been spoken by the family to the defendant or by him to them and he was eventually persuaded by the man with whom he had been struggling to move away.

The incident was reported to the police and defendant was found in a public convenience around which a large crowd had gathered. Some men were pushing up the steps away from defendant who was at the foot, thrusting his dagger forward and saying: " I will do everyone." Defendant adopted a very aggressive attitude to the police officer who restrained him and took possession of the dagger.

Defendant was arrested and taken to a police station where it was found that he had been drinking but was not drunk. He had a dagger sheath affixed to the top of his trousers by means of his braces and the dagger was found to be ten inches long. Defendant told the police " Last Saturday a fellow set about me and punched me in the eye. This time I brought a knife to frighten him."

Defendant, who pleaded guilty to the charges, stated that he did not remember many of the events of the evening, and he attributed this to the drink he had taken.

Defendant was fined £2 and ordered to pay £2 10*s.* costs upon the first charge, and the dagger, which he said he had bought in Hamburg, was confiscated. On the second charge defendant was fined £2.

COMMENT

Section 1 of the Prevention of Crime Act, 1953, provides that any person who, without lawful authority or reasonable excuse, proof whereof shall lie on him, has with him in any public place any offensive weapon, shall be guilty of an offence and be liable on

summary conviction to three months' imprisonment and a fine of £50 Subsection 2 of the section enables a court to order the forfeiture or disposal of any weapon in respect of which the offence was committed.

Section 2 (2) of the Act provides that it shall come into operation on the expiration of one month from the passing thereof, and the Act was in fact passed on May 6, 1953.

Mr. C. W. Johnson, Chief Constable of Dudley, to whom the writer is greatly indebted for his report, mentions that there was considerable doubt locally as to the time when the Act became operative, and adds that there was a school of thought which favoured the view that the commencing moment was 12.1 *a.m.* on June 7. Had this view been correct the defendant could not, of course, have been tried upon the first charge referred to above.

Mr. Johnson contended that the Act came into operation immediately after midnight on the night of June 5/6 and the writer respectfully concurs in Mr. Johnson's view.

Section 3 of the Interpretation Act, 1889, provides that in every Act passed after the year 1850, the expression "month" shall mean "calendar month" and as the date of the passing of the Act was May 6 it would appear, without doubt, that the Act came into force at 00.01 hours on June 6.

No. 45.

FURNISHED HOUSES (RENT CONTROL) ACT, 1946—PREMISES DIVIDED AND RE-LET

A lessor appeared at West London Magistrates' Court recently, to answer a number of charges laid under s. 4 (1) of this Act, alleging that she had received rent in excess of registered rent.

For the prosecution, evidence was given that in January, 1950, the rent of two top floor front rooms at defendant's premises was fixed by the rent tribunal at £1 10*s.* per week. From August, 1951, one of these rooms was let at £2 15*s.* per week, and the other room was used by a relative of the defendant.

Counsel for the defendant, who pleaded not guilty, submitted that the premises in question were different from the premises in respect of which the rent had been fixed by the tribunal. The learned magistrate stated that he was unimpressed by the argument, and expressed the opinion that if the defendant had been able to let one of the two rooms which formed the premises for which the rent had been fixed at a rent in excess of that so fixed, then she had completely defeated the purpose of the rent tribunal. He added that provision was made in the Act for a further reference to be made to the tribunal following the change of circumstances, and in this case the splitting up of the premises amounted to a change of circumstances.

Defendant was found guilty, and fines were imposed aggregating £28. In addition, defendant was ordered to re-pay the amounts overcharged.

COMMENT

It will be recalled that s. 4 (1) of the Act of 1946 provides that where rent payable for any premises is entered in the register kept by the local authority, it shall be unlawful to require or receive on account of rent for those premises in respect of any period subsequent to the date of such entry, payment of any sum in excess of the rent so entered. Section 9 of the Act provides that, on summary conviction, offenders against s. 4 may be punished by six months' imprisonment and a fine of £100.

Although this Act is undoubtedly responsible for many glaring injustices to landlords, it must be conceded without doubt that the decision of the learned magistrate in this case was correct, and that if he had held otherwise it would have been possible to evade without difficulty one of the principle objects of the Act.

(The writer is indebted to Mr. Horace Slim, Town Clerk of Hammersmith, for information in regard to this case.)

No. 46.

ATTEMPTED SUICIDE

On June 3, 1953, a retired naval commander appeared before the Hailsham justices charged with attempting to commit suicide by attempting to shoot himself on a day in March of this year. Defendant was further charged with being in possession of a revolver without a firearm certificate.

For the prosecution, evidence was given that after a darts match defendant went home and shot himself in the head. A doctor said that he had not been expected to survive.

Defendant, who pleaded not guilty to the first charge and guilty to the second, gave evidence that he remembered going to the darts match but little of what happened later. On the night of the shooting he slammed the car door and got his head caught between the door and the roof.

Defendant's wife, who was called as a witness for the defence, said that she and her husband had an argument and they became angry with each other. Defendant said: "If you don't trust me life is not worth living." He got the revolver in his right hand and it went off.

Defendant was convicted upon the first charge and fined £25, and ordered to pay £15 13*s.* 8*d.* witnesses' expenses and advocate's fee of £5 5*s.* On the second charge a fine of £1 was imposed.

COMMENT

The writer has no information upon this case apart from what appears above, and no doubt there were good reasons why the justices thought fit to impose a substantial penalty. In general, would-be suicides present a pathetic picture in court, and are undoubtedly usually more deserving of sympathy and help than further punishment.

It always seems a little incongruous to punish someone for an act which has been detrimental only to that person, but the power to punish this ancient common law offence has always existed, and it will be recalled that until comparatively recent times, there was followed the disgusting habit of burying suicides who were found by a coroner's jury to be *sui juris* at a cross-roads with a stake driven through the body.

Attempts to commit suicide can be tried at assizes or quarter sessions and, with the consent of the accused, at magistrates' courts. It was decided in *R.* v. *Mann* (1914) 78 J.P. 200 that the offence could be punished by imprisonment.

(The writer is indebted to Mr. H. V. James, B.A., LL.B., Clerk to the Hailsham Justices, for information in regard to this case.) R.L.H.

PENALTIES

Walsall—May, 1953—driving a car while under the influence of drink—fined £100. To pay £8 8*s.* costs and disqualified from driving for five years. Defendant, a fish bait manufacturer, had two previous similar convictions.

Prestatyn—June, 1953—causing wilful damage to copper cables—fined £5. To pay 30*s.* costs. Defendant, aged seventeen, threw a piece of wire at an electric cable. It landed on top of the wires and the consequence was an electricity failure lasting nine hours in thirteen villages affecting between 3,000 and 4,000 householders.

Isle of Wight—June, 1953—stealing a ring which had belonged to a woman who had died in a nursing home—eighteen months' imprisonment. Defendant, a nurse, pleaded guilty to stealing a gold signet ring valued at £4 10*s.*

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

In your issue of May 30, 1953, you published a "contributed" article entitled "The Future Officers of the Police." As the author is unknown to me I am unaware whether he is a member of the Police service or not, but of whatever profession your contributor may be I consider his article is most timely and a factual picture of the present day position of the Police Service. May I be allowed to comment upon some of the points raised in this article and to raise one or two other points?

I would say at once that I am Chief Constable of Plymouth and was appointed in June, 1943, at the age of thirty-five. I joined the Metropolitan Police as a constable in 1932, and in 1934 was one of the first thirty students to be trained at the Metropolitan Police College at Hendon. These facts are given because I want your readers to know that this letter is written by a serving police officer who can be accused of some bias in suggesting that the Police Service today is urgently in need of some scheme whereby better material can be attracted than is the case at present so that we can be sure of a supply of future officers.

When Sir Robert Peel started his new police I think it can be said that though he "modelled the uniform on that of a gentleman of the day" he only visualized that the superintendents and inspectors of his new police should be the equivalent of first-class non-commissioned officers. He did not, in fact, wish to attract to these ranks of the Police Service what, for want of a better expression, I must call gentlemen. To command the force he did choose two gentlemen. Unfortunately the effect of this decision, making as it did the Police Service a job rather than a profession, has continued to this day, and it must be put on record that in some police forces, particularly in some of the county police forces, the police authorities and some chief constables still hold the view that the only gentleman required in the force is the man who is actually running it, and from assistant chief constable downwards it is considered that the material is good enough if it approximates to the first-class warrant officer in the armed services.

Partly from this attitude springs one of the most distressing aspects of the view held by so many senior officers in the Police Service at the present time, and that is this. While every chief constable in the country has a most interesting and generally well-paid appointment, I have found it almost impossible to discover any chief officer of Police who would be satisfied, did he have a son, to encourage him to join the Police Service. This attitude, of course, springs from two reasons: (*a*) a number of chief officers do not look upon the Police Service as a profession for a gentleman, and (*b*) because, as your contributor pointed out, the climb to the top is so long and in any case so very chancy.

At the present moment there is among chief officers of Police a small minority who desire to see a committee set up to look thoroughly into the position. None of this minority wants to see people brought into the Police Service direct into an officer rank, but many are of the same opinion as your contributor that the potential senior officer of the future should be picked out after the first two to four years in his service as a constable and should not be expected to pass through every rank before he becomes an officer in the force.

Your contributor mentions that *homo sapiens*, the practical policeman, and I agree with him entirely when he says there is much "prattle" about this mythical character. In October, 1946, when I wrote a memorandum criticizing some aspects of the First Report of the Police Post-War Committee I said: "A lot has been written and a lot has been said about this man the practical policeman. No one, I think, has ever tried to define what they mean. I would suggest it is quite wrong to think that any number of years of service make a practical policeman. I would go farther than that and say that it is perfectly apparent within a man's two years' probationary period whether, in fact, he has a flair for police work and has chosen the right profession. It is said in the Post-War Committee's Report that intelligence, character and personality are 'disputable' qualities as against proved 'police ability and achievements.' . I think this is a mere play on words. If your policeman has marked intelligence, a strong character and a good personality he is in a very short time a practical police officer. Obviously, in any profession the intelligent man learns something new until the last day of his service, but I suggest you can tell at a very early stage whether the material to hand is that required for an officer in the Police Service."

Your contributor mentions that people who were fortunate enough to go to the Hendon Police College have become chief constables in counties and city and borough forces and says these appointments are too numerous to mention, but I think it might be of interest to your readers to know that, in fact, there are seventeen chief constables commanding forces in either England or Scotland who were at Hendon, while four others are assistant chief constables. But this supply cannot go on much longer even if the Metropolitan Police do "seem to view this constant drain on their own officer resources with equanimity," for the number of men who went to this college was well under two hundred. Eighteen of these were killed during the late war, a proportion of them have retired, a few have been dismissed and quite a considerable number of them are employed overseas, one at the moment, for example, being chief of Police in Trieste.

Though much ill-advised criticism was levelled at the Hendon Police College started by Lord Trenchard it seems to me that the very numbers speak for themselves, and if the proof of the pudding be in the eating thereof it is perfectly clear that the Metropolitan Police College produced something that was needed and was acceptable to police authorities.

The present National Police College is not producing, and cannot by the rules that govern entry to it produce, the future officers the Police Service needs. Your contributor points out the very high average age as being nearer forty than thirty. Is it reasonable to expect that the intelligent young man, who can now by his own ability get first-class education without having to come from any particular class of society, is going to be willing to join a service at the age of twenty and still be serving as a sergeant when aged between thirty and forty, not having even then reached the first officer rank in the Police Service? In the Post-War Committee's Report to which I have referred before, a paragraph occurred which stated that a national police college must be regarded as fair by all members of the Police Service and it would be unfortunate if the impression got abroad that the object of the college was to secure promotion for a privileged class. In commenting upon this paragraph in 1946 I wrote as follows: "I would suggest that no great reform has ever been fair to everybody and that it is quite impossible under any circumstances to devise a scheme that would be regarded as fair by all members of the service as fair. Surely the question to be asked in dealing with any scheme for a police college should be 'Is it in the interest of the public good and for the ultimate good of the Police Service?' If the answer to this question is in the affirmative then the fact that some individuals find that the system operates to their disadvantage cannot be obviated."

Upon the second point, that the college should not secure promotion for a privileged class, I think the question can be asked, "Is there a privileged class today anyway?" There is equal opportunity of education and advancement, and nobody would suggest that the Police Service should only attract persons who have been fee-paying members of public schools and universities.

Finally, I would say that while a minority of chief officers of Police know that something is wrong, and I suspect that persons in high positions in the Police Division at the Home Office also have some grave misgivings, the greatest stumbling-block to any kind of reform is the opposition which would be put up by the Police Federation. At the present moment inspectors, sergeants and constables are joined together as federated members of the Police Service, and it is very doubtful indeed if you can properly marry together the idea of a man being an officer in the police force and at the same time acting in matters of welfare and efficiency through a federation which is also composed of sergeants and constables. When Lord Trenchard started his police college, one of the most important provisions in the Act that was passed through Parliament was that the officer-product from his college was no longer to be a member of the Police Federation, and in any reform that may take place in the future I think it must be necessary that this should happen again.

Yours faithfully,
J. SKITTERY,
Chief Constable.

Chief Constable's Office,
Plymouth.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

PERSONALIA

Referring to your notice of the appointment of His Honour Judge Rowe Harding at p. 304, *ante*, may I point out that Judge Harding ceased to be Chairman of the Haverfordwest Quarter Sessions on October 1, 1951, when the Quarter Sessions were abolished by virtue of s. 10 of the Justices of the Peace Act, 1949. His name has, however, recently been added to the Commission of the Peace for the County of Pembroke and he has been appointed Deputy Chairman of the Pembrokeshire Quarter Sessions in succession to His Honour Judge Trevor Morgan, Q.C., who has resigned.

Yours faithfully,
H. LOUIS UNDERWOOD,
Clerk of the Peace.

County Offices,
Haverfordwest.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

LEGAL AID SCHEME

Brigadier Frank Medlicott (Norfolk C) asked the Attorney-General in the Commons whether his attention had been drawn to the disclosure in the report of the Comptroller and Auditor-General that litigants under the Legal Aid and Advice Act, 1949, were £61,000 in arrear with their contributions to the Legal Aid Fund at the end of March, 1952; whether he was also aware that an increasing number of assisted persons appeared to be falling into arrear with their payments; and what steps would be taken to improve upon that situation.

The Attorney-General replied that most of the arrears were due to the temporary financial embarrassment of assisted persons or to the fact that the costs payable to the Fund were being, or were about to be, met by opposite parties. The Legal Aid Fund incurred no loss in those cases. In about sixteen *per cent.* of the cases the arrears were due to assisted persons failing to fulfil their obligations for other reasons; there were just over 1,000 of those cases on June 12 and in some of them the Law Society had taken proceedings. The Report of the Comptroller and Auditor-General would presumably be considered by the Public Accounts Committee and it was not proposed to take any special steps.

Mr. N. Nicolson (Bournemouth E. and Christchurch) asked the Attorney-General whether he would take steps to ensure that the courts called the attention of needy litigants to the facilities provided under the Legal Aid Scheme in cases where the litigant appeared to be unaware of the facilities.

The Attorney-General replied that he thought the scheme was so well known that no further action to bring it to the attention of litigants was required, but if Mr. Nicolson had any specific point in mind he would be glad to consider it.

MURDER CASES, SCOTLAND

The Secretary of State for Scotland, Mr. J. Stuart, stated in a written answer that thirteen cases of murder were made known to the police in Scotland in 1952. In three cases the suspected murderer committed suicide. Five persons were proceeded against for murder, of whom two were found to be insane and unfit for trial and three were found guilty, sentenced to death and executed.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, June 23

NAVY AND MARINES (WILLS) BILL, read 3a.
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) BILL, read 2a.
DOGS (PROTECTION OF LIVESTOCK) BILL, read 2a.
SLAUGHTER OF ANIMALS (PIGS) BILL, read 2a.
ROAD TRANSPORT LIGHTING (AMENDMENT) BILL, read 2a.

HOUSE OF COMMONS

Monday, June 22

NEW TOWNS BILL, read 1a.

Thursday, June 25

NATIONAL INSURANCE (INDUSTRIAL INJURIES) (No. 2) BILL, read 2a.
NATIONAL INSURANCE BILL, read 3a.

Friday, June 26

EMERGENCY LAWS (MISCELLANEOUS PROVISIONS) BILL (LORDS) read 2a.
MERCHANDISE MARKS BILL (LORDS), read 2a.

NOTICES

The next court of quarter sessions for the borough of Bridgwater will be held on Friday, July 24, at the Court House, Northgate, Bridgwater, at 10.30 *a.m.*

The next court of quarter sessions for the city of Winchester will be held on Friday, July 31, at the Guildhall, Winchester, at 10.45 *a.m.*

PERSONALIA

APPOINTMENTS

Mr. H. Llwyd H. Williams has been appointed H.M. Coroner for the northern district of Pembrokeshire in place of his father, Mr. Walter L. Williams, who died in February at the age of eighty-five. Mr. Williams, senior, had held the office for thirty-eight years and at the time of his death was the oldest coroner then in office. His son had been deputy coroner since 1921.

Dr. William Douglas Haig McFarland, assistant medical officer of health and assistant schools medical officer for Warwickshire, has been appointed medical officer of health for the Blaby and Lutterworth rural districts and assistant county medical officer for Leicestershire.

Mr. Walter Parkes, M.A., LL.B., senior assistant to the royal borough of Kensington, has been appointed senior legal assistant in the legal department of the National Coal Board at the Board's London headquarters.

RETIREMENT

Mr. H. Raymond Neck, clerk to the petty sessional division of Crockernwell, Devon, since 1948, has retired. He is succeeded by Mr. E. I. White.

OBITUARY

Mr. Wilfred Barnard Faraday, Recorder of Barnstaple and of Bideford since 1925, died recently at the age of seventy-nine. He was called to the Bar by Gray's Inn in 1900.

ADDITIONS TO COMMISSIONS

BUCKINGHAM COUNTY

Lieut-Col. Harold Herbert Hugo Boehm, O.B.E., T.D., Burnham, Layters Way, Gerrards Cross.
Richard Everard Augustine Elwes, O.B.E., T.D., Q.C., The Manor House, Weston Turville, Aylesbury.
John Henry Lancelot Aubrey-Fletcher, The Gate House, Chilton, Aylesbury.
Miss Marion Genevieve Gilbey, Lesser Halings, Denham.
William Francis Hartop, The Grove, Linslade, Leighton Buzzard.
Thomas Harry Harold Haseldine, 23, High Street, Stony Stratford.
Miss Eleanor Morton Johnson, Haywood House, Stewkley.
Henry George O'Connell, 6, Church Street, Wing.
Stanley Smith Preston, 2, Booker Hill Road, Sands, High Wycombe.
Edward Temple Ruddle, San Marco, East Common, Gerrards Cross.
Joseph Frank Warren, Grove Farm, Linslade, Leighton Buzzard.
Edward James West, Westholme, Hazlemere Road, Penn.
Mrs. Kathleen Mary White, King's Head Hotel, Aylesbury.

PEMBROKE COUNTY

His Honour Judge Rowe Harding, 7, Rutland Street, Swansea.

SOMERSET COUNTY

Miss Helen Victoria Joyce Barnes, Penlee, Milton Lane, Wells.
Mrs. Frances Edith Bent, Stonegallows House, Stonegallows Hill, Taunton.
Mrs. Gwendolen Mary Black, M.D., Warberry, 2, Kew Road, Weston-super-Mare.
Herbert Ernest Dyke, New Barns, Wincanton.
Brigadier Eric Herbert Cokayne Frith, C.B.E., The Cottage, Mount Street, Taunton.
George Nigel Stafford Gobey, O.B.E., Nightingale Farm, Brent Knoll.
Godfrey Emil Hecht, 22, Chamberlain Street, Wells.
John Hope, Chesils, Combe Down Lane, Combe Florey, Taunton.
Cecil Thomas Ladbrook Hurley, Ridgeway House, Long Ashton.
Miss Nora Elizabeth Ferrar Langman, North Cadbury Street, Yeovil.
John Gaston Leatham, The Gables, Private Road, Staplegrove, Taunton.
John Eustace Rosser, Bank House, Combe Down, nr. Bath.
Col. Charles Morgan Singer, Inches, Neilsea.
Col. Cecil Townley Mitford-Slade, Montys Court, Taunton.
Richard Horace Wilfred Warner, Selworthy, Dunkery Road, Weston-super-Mare.
Maurice William Woodbury, Bradwood, Wyndham Road, Taunton.
Lieut-Col. David Worrall, Lower Terhill, Bagborough, Taunton.

SOUTHAMPTON COUNTY

Sir George Arthur Harford, Bart., Standen House, Chute.
Dr. Frank Hedley, Seventrees, Blackfield Road, Fawley.
Mrs. Dorothy Violet Putnam, 11, Belle View Road, Andover.
Raymond Henry Roffey, 21, Windsor Road, Christchurch.
Gilbert David Venables, Horse and Jockey Cottage, Beaulieu, Brockenhurst.
Maurice Leonard Thomas Williams, 14, East Cliffe Way, Friars Cliff, Christchurch.

REVIEWS

Lumley's Public Health. Vol. IV. Twelfth Edition. By Erskine Simes and Charles E. Scholefield. London: Butterworth & Co. (Publishers) Ltd. and Shaw & Sons, Ltd. Price £5 5s. per volume. £2 15s. net Index.

This new volume of *Lumley's Public Health* is exciting as well as important, inasmuch as, beginning before the war, it carries treatment of the public health and related statutes well into the period of post-war legislation. The first Act included is the Housing (Financial Provisions) Act, 1938; the last the Electricity Act, 1947. Of pre-war statutes, the most important is the Food and Drugs Act, 1938. This was dealt with in the eleventh edition: the space occupied in this new edition is rather less, because some of the provisions of the Act of 1938 have been repealed and are dealt with in the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, an Act that will come into the next volume. Among post-war statutes the most important is, no doubt, the Town and Country Planning Act, 1947, and here the learned editors were in a quandary. While the volume was passing through the press Parliament was dealing, concurrently, with the Town and Country Planning Bill, 1952, which has since passed into law. The dilemma was whether to treat the law as if that Bill had not been introduced, or to delay the volume for the Bill to pass. A middle course was found, namely, that of mentioning in the editorial notes to the Act of 1947 the proposals in the Bill of 1952. This means that in using the volume one will have to verify (wherever such a note occurs) whether the particular clause in the Bill passed into law in the form in which the editors have mentioned it. This is unfortunate from the point of view of users of the work, but was clearly the best course to adopt since, if either of the others mentioned had been followed, the result would have been misleading. As it is, there is some labour involved, for which the reader must blame the Government and Parliament. *Lumley* and his editors have done the only thing they could, and at any rate nobody can be misled. Their preface reminds readers that there is consequential legislation on this subject still to come.

Another Act of first importance to those concerned with public health, which was just in time to get into the eleventh edition of *Lumley*, is the Water Act, 1945. This was largely amended by the Water Act, 1948, and effect is given to these amendments in the present volume. The Act of 1945 is an irritating enactment, by reason of the form of sch. 3; the numbering of provisions therein in the same way as sections in the body of the Act, and the complex incorporating provisions. We have found reference to *Lumley*, in the last edition, constantly necessary and always helpful. We are glad to see that the Building Restrictions (War-time Contraventions) Act, 1946, has been retained. There must have been some temptation to omit it, but being dead it yet speaketh, and the editors have wisely included also the full text of two official publications dealing with its peculiar provisions. They have also given a useful reminder in the notes, to the effect that s. 11 of the Defence of the Realm (Acquisition of Land) Act, 1916, is still in force: it was the precursor of the Act of 1946, much simpler because of the then much simpler form and content of building law, but identical in object.

Other statutes kept in, which there must have been a temptation to omit, are the Building Materials and Housing Act, 1945, and the Requisitioned Land and War Works Act, 1945. These were both the products of the second world war, but have in turn led to pretty widespread consequences in the field of public health, and it is still desirable to consult *Lumley* for their terms.

Public health has now become so wide a topic that there are several things to be found here (and this unavoidably) which would hardly be placed under this heading by the man in the street. The Civil Defence Act, 1939, and the Pensions Increase Act, 1947, are illustrations of what we have just said.

The National Health Service Act, 1946, is a little nearer to public health in the ordinary sense, but it has not been thought appropriate to set out and annotate the whole of it in this work. Portions of Parts II and VI, and the whole of Part III, have been included, inasmuch as these relate to local authority property and the provision of health services by local authorities.

The volume contains a great variety of miscellaneous statutory provisions taken (in some cases) from Acts of which only a portion affect the powers and duties of local authorities, such as the Fire Services Act, 1947. On the other hand the New Towns Act, 1946, has been included as a whole, although at the initial stage of a new town the local authority looms smaller than the development corporation.

Returning to the Town and Country Planning Act, 1947, we are inclined to think that the notes here given, though less voluminous than in some specialized works, will be found more manageable, and quite as much as is ordinarily needed by the local government practitioner, to whom it will be a relief to have this annotated version of that important Act—even though the exigencies of publishing and politics, going on side by side, have meant that the notes cannot be conclusive about amending legislation. Most of those who use *Lumley* have probably got into the habit of regarding his notes as the last word upon the subject with which they are dealing; so far as we have yet been able to study the volume just received we are sure that this habit will be well maintained. The preface is dated December, 1952, and it is regrettable that the volume could not appear at a date a little nearer to the end of last year, but such a gap is unavoidable in these days. There has, however, not been in the interim any great amount of legislation, apart from the Town and Country Planning Act, 1953, already mentioned, to upset what is said in the editorial notes—and this last mentioned Act has been anticipated, as we have explained. For all practical purposes, therefore, in spite of its being dated last December, the work is completely up-to-date. We notice that volume V is said to be in active preparation, and should be in the hands of the public before the end of 1953. Volumes VI and VII (it will be remembered) were published out of turn, so as to make most of the subordinate legislation available as early as possible. With the volume now before us, and volume V due to appear before the end of the present year, *Lumley* will accordingly be once more complete. Already it is clear that it has lost none of its old reliability, and that it is destined to go on filling the place of honour upon the book shelves of the local government practitioner.

The Company Prospectus. London: Gee and Company (Publishers) Ltd. 1953. Price 3s. 6d. net.

Amongst our readers, treasurers and accountants and their staffs may have direct concern with a company prospectus. Otherwise, the principles on which a prospectus should be drawn, and the manner of approaching it, are not of greater interest to our own readers than to other people, but it is desirable that every educated person should have some understanding of a matter which so greatly affects modern life. We therefore welcome the present reprint from *The Accountant*, of four lectures which were delivered to the London and District Society of Chartered Accountants in the winter of 1951–52.

The first lecture gives the point of view of the Stock Exchange and the second that of the lawyer. It is, we suppose, the latter to which most of our readers will address themselves. The other two lectures deal with the approach of the accountant and the institutional investor. The last named is possibly that which will give the most guidance to the private investor. The booklet, running to fifty-two pages in all, is a useful little addition to the many works relating to companies and kindred matters which Messrs. Gee have published—even though the reader who is not an expert may be inclined, when all is said and done, to sum up his ideas about prospectuses in the words of the heading to the last paragraph in the book: "A perplexing problem."

The Justices' Handbook. By J. P. Eddy, Q.C. London: Stevens and Sons Ltd., Chancery Lane, W.C.2. Price 18s. net.

There is no need to say much about this book, which is the third edition of a well-known and reliable guide to the work of a magistrates' court. Mr. Eddy combines the learning of a sound lawyer with the experience of a busy stipendiary magistrate, and to these he adds a literary style that increases the pleasure of reading his book.

The principal reason for a new edition at this moment is the necessity to bring the work up to date in the light of recent statutes, and in particular the Magistrates' Courts Act. The author has, however, taken the opportunity to revise the book generally and to add three new chapters, one on jurisdiction of justices, one on the hearing of complaints and one on miscellaneous summonses. These are all useful additions to a book which we can once again recommend with confidence.

The Child on the Road. Published for The Children's Safety Crusade Trust by the Economic Research Council, 18, South Street, London, W.1. Price 4s. net.

This is a factual report with carefully compiled tables of figures and illustrative graphs dealing with the subject of the risks run by children on the roads of this country. It is the report of a study group with Professor J. Harry Jones, M.A., LL.D., as chairman, and Mr. Harold S. Goodwin, as secretary and editor of the report, and their studies were based upon the experience of the year 1951 in order to ascertain in what circumstances and at what ages children were shown, by that experience, to run the greatest risk of accident. We recommend this report to all who are concerned with the training and upbringing of children, to all road users, and to all concerned with the construction and maintenance of roads. In the introduction it is stated that the most significant and disturbing revelation in the report is the high risk

of accidents to child cyclists. We commend also the passage which begins " It is surely a profound error to blame large classes of road users. To criticize, in general terms, pedestrians or private motorists or lorry or bus drivers or motor cyclists is to place each class on the defensive, to excite irritation and engender antagonisms, and to prevent that combined attack upon the problem without which the evil itself cannot be eradicated."

The duty of parents to train their children and not to rely wholly upon school instruction is emphasized.

We cannot give here details of the various figures set out in the report but the magnitude of the problem is shown by the following figures of totals of road accidents to children :

1949, 38,767 ; 1950, 39,780 ; 1951, 42,676 ; 1952, 40,927.

To sum up, we think this is a first class and valuable report.

PLANNING CONDITIONS AND HIGHWAY REQUIREMENTS

Although circular 58/51, issued by the Ministry of Local Government and Planning in September, 1951, remains operative as a useful guide to the drafting of planning permissions, it is apparent that there is a considerable divergence of opinion as to how much the document was intended to convey.

This observation applies among others to that kind of condition in planning consents requiring certain highway provisions such as visibility splays, lay-byes, accesses, etc., to be carried out to the satisfaction of the County Surveyor, sometimes not merely as to setting-out or mode of construction but also with respect to such wider matters as choice of siting and magnitude of works. Highways being so frequently affected by planning proposals it is perhaps not surprising to find these conditions frequently imposed, not only by the local planning authorities on their own initiative but also by direction of the Ministry of Transport, and it may be of advantage, therefore, to consider whether this continuing procedure is warranted either in law or practice. For the sake of brevity it might be well to refer to conditions of the kind in question as " satisfaction conditions."

As the circular says, s. 34 of the Act does not permit delegation to " third parties," that is, to any person or body other than the district council, and one view is that this alone renders satisfaction conditions illegal. Indeed, if the conditions were in purported exercise of powers delegated to an officer, they undoubtedly would be, but it is necessary to look further to establish what is, or may be, the true legal position.

In order that the control of development should not be unduly fettered, Parliament designedly gave great power to local planning authorities when in s. 14 they were enabled to grant permission " subject to such conditions as they think fit," it being implicitly provided, of course, that the conditions came within the ambit of planning, and it might be thought that the imposition of satisfaction conditions in suitable cases was in reasonable interpretation of the section. Reference to the section, however, demonstrates that it is the local planning authority alone who must grant the permission, that is to say, must grant the totality and entirety of the condition, and they cannot, as it were, perform ninety *per cent.* of their allotted task and leave the remaining ten *per cent.* to be carried out by someone else. In other words, it would be necessary to consider just what had been assigned to the County Surveyor to settle.

There is good authority, in *L.C.C.* v. *Hobbis* (1896) 61 J.P. 85, that in the discharge of their duties a local authority must themselves perform all that is discretionary, thus leaving to officers only the ministerial or administrative application of the authority's decisions. In consequence, the question must arise in each case whether a satisfaction condition can reasonably be held to require the exercise of discretion or whether it merely amounts to the practical implementation of an already complete consent. If the former, there is more than a little danger that the condition would be held bad, and in the latter case, however limited the reference to the officer, there still is room for the argument that whatever the County Surveyor may require is something that the local planning authority could have and should have prescribed in order to render their decision complete. After all, in *Allingham and Another* v. *Minister of Agriculture and Fisheries* [1948] 1 All E.R. 780, where the War Agricultural Committee decided that the occupiers of certain land should be required to grow eight acres of sugar beet, but left it to their officer to specify exactly where it should be sown—seemingly a small enough matter—the Divisional Court held that the consequential notice was ineffective and non-compliance not an offence.

Needless to say the chief reason for wording satisfaction conditions in this way is the fact that highway requirements may well be matters of great detail and are sometimes of a character as to make them difficult of description in a document, even when accompanied by drawings, the contention therefore being that it would be unnecessarily cumbersome to embody in the consent what amounts to a fully particularized specification to achieve a somewhat limited object. The argument is also sometimes advanced that at the time of granting the consent the County Surveyor does not know what his requirements may be.

Can these difficulties be overcome ? Objection to using the expression " to the satisfaction of the county surveyor " can readily be met by substituting " the local planning authority " for " the County Surveyor " although the actual supervision of the work would be carried out by that officer just the same. But such a device at once raises a further issue, which is that an applicant may well claim that after his proposals have been through the planning machine, a process usually taking weeks and even months, he is entitled to expect that the document conferring permission on him shall be both certain and final and that it should contain no element the extent of which and the cost of which cannot be determined until the authority's officer, no doubt after visits to and discussion on the site, has reported back to the local planning authority, who at their next meeting can formally express their satisfaction. By that time, of course, the period within which the applicant has a right of appeal has long since passed.

The ideal solution, of course, would be the incorporation in the actual consent of a specification sufficient to bind the applicant while at the same time telling him exactly where he stands. The highway requirements have got to be specified sooner or later and it is hard to understand why it cannot be done sooner. Remembering the Ministry's injunction that conditions should be as brief as possible, that full consultation should when needful take place between applicant and authority before a decision is made, and not forgetting that many consents are already of some elaborateness as to conditions, one wonders whether in the case of satisfaction conditions the ideal is necessarily so remote from practical politics and if it might not after all be worth while trying to specify highway requirements in the consent, thus removing at one stroke all existing doubts as to the legality and enforceability of this important class of condition.

AGRICOLA.

THE CLUB OF QUEER TRADES

Among the varied exhibitions that have helped to grace the Coronation celebrations—the splendours of the Abbey, the Royal Robes at St. James's, the Fabergé treasures in Regent Street, the Constables at the Tate and the Academy at Burlington House—was one that provided a peaceful refuge from the crowds besetting streets and public buildings in the Metropolis. This quiet little island, almost submerged amid the surging waves of humanity, was the Royal Horticultural Hall in Westminster, in which were displayed the little-publicized activities of the Society of Aquarists and Pond-Keepers. Here, in an atmosphere of restful calm, the curious might observe the denizens of river, stream and lake, imperturbably pursuing their endless round in cool little worlds of glass and water, with nothing to do but nibble the green plants provided for their sustenance, to swim lazily back and forth in the limited security of their temporary homes, and from time to time to gaze, through transparent walls, upon the strange human monsters outside. The visitor could not but feel that in each piscina he was looking upon a microcosm which afforded at once a caricature of and a contrast with the world of men ; all those rapidly-moving jaws, those quivering gills, those glassy eyes with the slightly lugubrious expression peculiar to fish of every species when they are (so far as one can tell) thoroughly enjoying themselves—all these features, so lifelike, and yet so deathly silent, at once attract and repel the jaded visitor newly escaped from the noise and glare of crowded streets. The contemplative atmosphere is contagious, and one cannot help speculating what manner of men are these Aquarists and Pond-Keepers, who devote their lives to caring for the well-being and studying the habits of Iridescent Guppies, London Sherbunkins, and other strangely-named inhabitants of the piscine world.

One thing leads to another, and curiosity on this subject induced us to glance at the Classification of Industries in the Census of 1951. The diversity is staggering : nearly one thousand classes and sub-classes of occupation are listed in this instructive volume. The alphabetical index makes strange bed-fellows : " Appeal Court, Members of " rubs shoulders with " Apartment Letters " ; " Barristers " with " Barrow Hirers " ; and " Solicitors " with " Sole (Rubber) Manufacturers." " Poets " jostle " Publicans " ; and " Secretaries (Chartered) " are cheek by jowl with " Ship Fumigators." We were fascinated to learn that the generic heading of " Grocers and Provision Dealers " includes " Higglers " and " Hagglers " (whatever they may be) ; that the genus " Fisheries " contains the species " Periwinkle Gathering " ; and that " Fez Cap Manufacturing " falls within the ambit of " Headwear." The Miscellaneous List, impressively headed " Other Services," includes some choice tit-bits—" Bait Diggers," " Knackers," " Knockers-up " (this last juxtaposition does not, apparently, signify any close relationship), " Masters of Ceremonies," " Poodle Clippers " and " Tattooers."

One well-known profession—sometimes regarded as the oldest of all—is conspicuously absent from this otherwise exhaustive record, and one wonders under what respectable disguise its members may be masquerading in these pages. That we should remark on its absence is not so indecorous as it sounds. Most lawyers are familiar with the strangely-assorted varieties of user commonly prohibited, for the demised premises, in leases that follow the old conventional form ; among these the archaic and euphemistic " Bagnio-Keeper " finds dishonourable mention, along with " slaughterer, tripe-dresser, soap-boiler, tallow-manufacturer," and other so-called " noxious, noisome or offensive trades," the list ending (somewhat incongruously) with " keeper of lunatics or persons of unsound mind, or of a boys' school." To us the method of selection adopted in stigmatizing these trades, rather than some others, as " noxious, noisome or offensive " has always seemed both arbitrary and capricious : " violin-student," " baby-minder " and " radio-addict " are three, to start with, which we should want to add to the list.

As to the literary associations of the subject, it is curious how certain trades appear to encourage cultural activities—others not at all. Cobblers in particular have a reputation for high mental capacity ; Shakespeare seems to have recognized their tradition for wit in the opening lines of *Julius Caesar*, where the haughty Tribunes question the Second Citizen as to his vocation :

" A trade, sir—that I hope I may use with a safe conscience ; which is indeed sir, a mender of bad soles. . . . Truly, sir, all that I live with is by the awl. I meddle with no tradesmen's matters, nor women's matters, but with awl. I am indeed, sir, a surgeon to old shoes : when they are in great danger, I recover them."

Hans Sachs, the foremost of the Mastersingers of Nuremberg, was a cobbler, too ; his name is immortalized in Wagner's Opera, but he was a sixteenth-century historical personage.

As to those enthusiastic amateurs of *A Midsummer Night's Dream*, who made such a glorious comedy of " The Tragic History of Pyramus and Thisbe," it is quite unnecessary to think up elaborate explanations for the anachronism involved in setting down these very English Elizabethan types at the sophisticated Athenian Court of Theseus and Hippolyta. Quince the Carpenter, Snug the Joiner, Flute the Bellows-Mender, Snout the Tinker, Starveling the Tailor, and Bottom the Weaver are timeless characters—eternal representatives of the " hard-handed men . . . that never labour'd in their minds till now " who take so seriously the activities of the dramatic society in their local Working Men's Club, and give enormous pleasure and satisfaction to themselves and their audience in the process. Shakespeare knew what he was about.

In the smug and prosperous Edwardian Age of 1905, the whimsical genius of G. K. Chesterton gave us *The Club of Queer Trades*.

Here is the Repartee-Organizer who, at public dinners,

"for a guinea a night, by a pre-concerted scheme, says the stupid things he has arranged for himself, and gives his client the opportunity to say the clever things arranged for him."

We also read of the Adventure and Romance Agency, Limited, " the object of which is to meet the great desire for something to waylay us and lead us splendidly astray : the man who feels this desire pays a yearly or quarterly sum to the Agency, which in return undertakes to surround him with startling and weird events. As he is leaving his front door, an excited sweep approaches him and assures him of a plot against his life ; he gets into a cab, and is driven to an opium den : he receives a mysterious telegram or a dramatic visit, and is immediately in a vortex of incidents."

And finally we meet the Professional Detainers :—

" We are paid by our clients to detain in conversation, on some harmless pretext, people whom they want out of the way for a few hours."

To this company also belongs the harmless drudge who, week by week, bespatters with his witless jottings the pages of a certain learned periodical. A.L.P.

TRANSLATION

' A Lease of his Life ' is a homely phrase
For one who seems blessed with length of days
But to technical fellows like you and me
It becomes an estate *pur autre vie*.

J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Aliens—*Failure to produce registration certificate—Aliens Order*, 1920, *art.* 6c.

An alien is stopped by a police officer in connexion with a traffic offence. The alien, whose identity is not known to the police officer, is asked to produce his registration certificate, but cannot do so. He explains that the certificate is at his home and that the police of the district in which he is registered had not told him that he should carry the certificate with him. Are you of the opinion that an offence is being committed under art. 6c of the Aliens Order, 1920, or would you consider the alien has given a satisfactory explanation of the circumstances which prevented him from producing the certificate, thus absolving him from any question of proceedings?

Your assistance would be appreciated. SANS.

Answer.

We do not consider that it can be said generally that it is a good defence for an alien to say he was not told all his legal obligations. The word "prevent" seems rather to rule out such explanation as a defence. There is certainly a case to answer.

2.—Firearms—*Offences—Time limit for proceedings.*

I should be glad if you would kindly let me have your views on the following:—

1. The holder of a firearm certificate transfers his firearm and fails to report the transfer by registered post within forty-eight hours, contrary to s. 11 (2) of Firearms Act, 1937, and in fact does not report the transfer at any time.

2. The holder of a firearm certificate changes his residence and fails to comply with the conditions contained on his certificate, that he report any change of residence without delay to the chief officer of police which would be a breach of s. 1 (2) of the same Act.

Are either, or both of these offences continuing ones?

Having regard to s. 27 of the Firearms Act, 1937, could proceedings be instituted by the police after the expiration of six months, after the transfer of the firearm and change of address took place, or should proceedings be instituted by, or by the direction of the Director of Public Prosecutions. S. JOC.

Answer.

1. We think the offence is complete after the expiration of the forty-eight hours, and that it should not be treated as a continuing offence for the purpose of the time limit. If more than six months have elapsed we think the prosecution must be by, or by direction of, the Director.

2. We think the same principle applies. Once reasonable delay has been allowed for, the offence is complete.

3.—Juries—*Qualification by ownership.*

A question has arisen in this borough as to the correct interpretation and practice with regard to the two following statutory qualifications for jury service:

(i) a householder rated in respect of premises, the net annual value of which is not less than £20 (or in London or Middlesex, £30), or

(ii) a person who has in his or her name or in trust for him or her within the county in which he or she resides a net income of £10 *per annum* from lands or tenements whether of freehold or customary tenure or of ancient demesne, or in rents issuing out of any such lands or tenements or in such lands, tenements and rents taken together in fee simple, fee tail or for the life of himself or some other person.

It is the practice in the borough to mark only as jurors all persons who are householders of property rated at not less than £20 in accordance with paragraph (*a*) as set out above. It is not the practice to mark automatically those persons who are owner-occupiers of property of a net annual value of not less than £10. It is contended, however, that all owners occupying property of a net annual value of £10 are qualified and are in the same position as though they receive the income by letting it. Your opinion as to whether this practice is correct would be much appreciated. A. STAT.

Answer.

In s. 1 of the Juries Act, 1825, the qualifications were stated the opposite way, the primary qualification being not (as given in the query) a net "income" of £10 from lands, etc., but £10 above reprizes (*i.e.*, £10 net) "in" lands, etc., Your present practice would let out not merely owner occupiers not possessing the secondary qualification by annual value, but also leaseholders for twenty-one years or for lives, below the secondary qualification, if they did not derive an income from their leases. In 1825 Parliament would scarcely have thought of such leaseholders as deriving an income (*e.g.*, by subletting) from the property, and in our opinion it did not intend to let out persons who possessed the primary qualification by value, but did not realize that value in cash.

4.—Landlord and Tenant—*Rent Restriction Acts—Increase of rent—Improvement of sewer.*

A local authority has served notice of intention to execute works of maintenance to a length of public sewer, formerly a combined drain, and has carried out the works. This has been followed by a demand for the costs, which have in due course been paid. Attention is drawn to s. 24 of the Public Health Act, 1936, and in particular to the third paragraph of subs. (1) which provides that the expression maintenance in relation to any length of the public sewer to which this section applies includes repair, renewal, and improvement, but in the case of improvement includes only such improvement as may be necessary to make that length of sewer adequate to drain the premises served by it immediately before the improvement was undertaken. By this it would appear that only works of maintenance can be charged for by the local authority and improvements as such would have to be paid for by them. Attention is also drawn to s. 23 which provides that a local authority may recover in certain cases the expenses, or part of the expenses, incurred by them in maintaining a length of a public sewer. I would draw attention to the use of the words "maintaining" and "maintenance."

In the case of *Strood Estates Co., Ltd.* v. *Gregory* [1936] 2 All E.R. 354 the Court of Appeal held that the substitution of a modern and efficient sanitary system for one of an older type was an improvement or structural alteration within the meaning of the Rent Restrictions Acts. I make no comment so far as this applies to works on what is known as a single private drain, but it would appear to me that works of maintenance to a public sewer hardly come within this ruling, and at the moment I am not inclined to think that the cost of such works of maintenance are such as to qualify for a notice to tenants requiring them to pay eight *per cent.* of the cost of the works, and here again attention is drawn to the language used, and that is "eight *per cent.* of £x. spent on improvements and structural alterations not including decorations and repairs to the premises." Your opinion is sought as to whether works of maintenance carried out under the provisions of s. 24 of the Public Health Act, 1936, are equivalent to repairs to the premises, or do they constitute works of improvement as defined by the Rent Restrictions Acts. A. IGNO.

Answer.

We do not think they are either "repairs" or "works of improvement" of the dwelling-house, which is what the Act of 1920 says.

5.—Licensing—*Prohibition of clerk to justices for acting in licensing matters—Justices of the Peace Act*, 1949, *ss.* 19 (13), 23 (1).

I shall be obliged if you will give me your valued opinion upon the operation of cl. 13 of s. 19 of the Justices of the Peace Act, 1949, which prohibits a clerk appointed after the coming into force of the section from acting professionally in connexion with licensing matters for any district. This section comes into force on April 1, next, and contains in cl. 1 of the section the power for the magistrates' courts' committees to appoint justices' clerks. Therefore, on the face of it, the prohibition in cl. 13 of the section would appear to relate only to clerks appointed after April 1. Section 23 of the Act, however, provides that a justices' clerk holding office immediately before the date of the coming into force of s. 19 of the Act shall be deemed for the purposes of the Act to have been appointed by the magistrates' courts' committee. Reading the two sections together, therefore, it would appear that the prohibition in cl. 13 of s. 19 will relate to all justices' clerks as from April 1, next, *i.e.*, not only to justices' clerks then appointed for the first time but also to those justices' clerks who have held office immediately before April 1.

I have for some years conducted a considerable number of licensing applications in divisions adjacent to those in which I hold office as clerk to the justices, and am likely to be asked to make appointments for such applications after April 1, next, and should therefore be glad to have your opinion as early as possible. NGY.

Answer.

In our opinion, s. 19 (13) of the Justices of the Peace Act, 1949, imposes no prohibition on a clerk to justices appointed before April 1, 1953. The subsection has reference to the date of his appointment as clerk to justices, and, in our opinion, the actual date of his appointment, for the purposes of the subsection, is unaffected by s. 23 (1) which deems him to have been appointed by the magistrates' courts' committee.

We think that our correspondent is entitled to continue to act for clients in licensing matters while he holds his present position as part-time justices' clerk ; but he will lose the privilege of doing so if he is appointed to any other clerkship after April 1.

6.—Magistrates—*Jurisdiction and powers—Taking into consideration a number of offences involving an aggregate amount greater than they could deal with as one charge.*

A point has arisen with regard to the procedure concerning offences under s. 20 (1) (iv) of the Larceny Act, 1918.

Recently, a woman was proceeded against by summons on ten charges of fraudulent conversion contrary to the above Act and section. The sum of money alleged to have been fraudulently converted in each charge was four shillings, making an aggregate total sum of £2. The woman pleaded guilty and elected to be dealt with summarily.

In addition to the charges, there were 122 similar offences which the woman admitted and desired to be taken into consideration. The sums of money in each offence, ranged from 2*s.* to 16*s.*, making an aggregate total of £25 12*s.* 11*d.*

The woman was dealt with summarily on the ten charges mentioned, but the 122 other offences were not taken into consideration, as the magistrates felt that, as the aggregate total amounted to over £20 they were not competent to deal with this aspect of the matter summarily. No further action has been or is likely to be taken regarding these other offences.

The point which has now arisen is, can charges of fraudulent conversion and offences of fraudulent conversion which are to be taken into consideration, be dealt with summarily, of course, with the consent of the accused, where the aggregate total of the charges or offences to be taken into consideration, amounts to over £20, or must they be dealt with on indictment.

Your considered opinion regarding this matter, and whether there is any authority on the point, would be greatly appreciated. JUB.

Answer.

The justices had jurisdiction to take the charges into consideration, since each was one they would have had jurisdiction to try. They could have imposed sentence themselves, or, if they thought their powers of punishment were inadequate, they could on the authority of *R.* v. *Vallett* (1951) 116 J.P. 103 have committed to Quarter Sessions for sentence under s. 29 of the Criminal Justice Act, 1948.

7.—Magistrates—*Practice and procedure—Bias—Headmaster of a school acting as a justice hearing a police prosecution in respect of property of the local education authority.*

If a magistrate who is headmaster of one of the schools of a local education authority adjudicates in charges of larceny (brought by the police) in respect of property belonging to that authority, are the proceedings open to objection or subsequent appeal on the ground of likelihood of bias ?

I have advised those of my justices who are teachers that if they adjudicate in such cases appeals might be made against their decisions on the ground of likelihood of bias because they are servants of the owners of the property which is the subject of the charge. They have refrained from doing so, but have intimated that they feel confident that they could act impartially in such cases, and that the likelihood of doubt arising in the minds of defendants would be very remote. In my view this might be very difficult to assess in the case of children and young persons. It would not be proper to adopt a practice of asking them if they waived any objection, and it would be very difficult to explain to many of them the principle involved if such a practice obtained. I would add that the majority of cases occur in the juvenile courts. Justices who are teachers do not adjudicate in cases concerning children from their own schools, nor would they do so in respect of any other matters concerning their own particular school.

I feel that it is inadvisable for justices to adjudicate in cases such as that above-mentioned. The question is not only one of their confidence in their own impartiality, but the more important one of the public having no grounds whatever for suspecting absolute impartiality.

The justices have some feeling that I am being somewhat over-cautious in my advice to them and I am, therefore, seeking your valued opinion on the point. JIT.

Answer.

We do not think that his position as headmaster disqualifies him, unless the property is from the school of which he is headmaster. But, as we have said before in answering questions on bias, it is not enough for the justice to be satisfied of his own impartiality ; if from the particular circumstances of a case there is any reasonable ground for suggesting that the defendant might think that he is biased we feel it is better that he should not sit.

8.—Magistrates—*Practice and procedure—Enforcement of fine—Committal without means inquiry when defaulter is in prison for another reason.*

I should be glad of your guidance on the following point :

One AB was convicted at the local court on October 22 last on a charge of false pretences and ordered to pay fine and costs amounting to a total of £13 14*s.* I have been unable to recover the fine and costs and the defendant has been convicted by another court on a similar charge and sent to prison for six months. It is unlikely I shall ever be able to recover the amount due and I write to inquire whether it will be in order for the justices to issue a commitment in respect of the non-payment of the fine and for the same to be sent to the prison at which the defendant is serving his sentence in order that the fine may be cleared off. If this course is adopted, the defendant will not, of course, have been examined as to his means and at the time of the conviction no imprisonment was ordered in lieu of payment of the fine. JOL.

Answer.

A commitment warrant may be issued without means inquiry (Money Payments (Justices Procedure) Act, 1935, s. 1 (3), proviso (*b*)).

9.—Public Health Act, 1936—*Nuisance—Notice to owner—Meaning of owner.*

An estate owner A lets to C, at an inclusive rent, a farm and workmen's cottages. The rent is collected by A's agent B. C lets one of the cottages on a service tenancy or service occupancy to D. C states that it is a tied cottage and that the statutory permitted deduction of 6*s.* per week is made for use and occupation and deducted from the workman's weekly wage. Owing to structural defects the local authority consider that there is a statutory nuisance existing at the cottage and propose to serve an abatement notice on the owner under s. 93 of the Public Health Act, 1936. Upon whom should the notice be served ? BAR.

Answer.

It is the cottage, not the total holding of farm with cottages, which constitutes " the premises in connexion with which the word is used " in s. 93, *viz.*, " the premises on which the nuisance occurs." The notice should therefore be served on C : *cp.* cases noted in *Lumley*, pp. 2875-6.

10.—Road Traffic Acts—*Pedal cycles—Carrying three persons on a tandem cycle—Operation of s.* 20, 1934 *Act.*

I shall be very grateful for your learned advice on the following point which has arisen in this district.

Three people were seen on a tandem pedal cycle, not propelled by mechanical power, which was only constructed for the carriage of two persons. Under s. 20 of the Road Traffic Act, 1934, it sets out that " it shall not be lawful for more than one person to be carried on a road on a bicycle not propelled by mechanical power, unless it is constructed or adapted for the carriage of more than one person." I have been unable to find any reference to an offence being created by the carriage of more than two persons on a tandem pedal cycle which is only constructed or adapted for the carriage of two persons.

In connexion with this, the following questions have arisen :

1. Is such an offence created ?
2. If so, under what Act ?
3. If the answer to (1) is in the affirmative, is it possible to prosecute the three persons, as in the case of an ordinary bicycle constructed for the carriage of one person, where the two persons riding it are prosecuted under s. 20 of the Road Traffic Act, 1934 ? JOFO.

Answer.

1. In our opinion, no.
2. Does not arise.
3. Ditto.

11.—Road Traffic Acts—*Speed limit—Goods vehicle unladen weight exceeding three tons.*

The driver of a heavy motor vehicle unladen weight over three tons is driving the vehicle on test after having had a new part fitted to the engine. He admittedly drives in excess of the speed limit of twenty m.p.h., applicable to the vehicle by virtue of the first schedule to the Road Traffic Act, 1930, as now amended. The vehicle is unladen and the driver has sitting beside him a mechanic assisting with the test. The vehicle has two bucket seats in front, one for the driver and one for a passenger and the rest of it is adapted solely for carrying goods.

It is submitted that the vehicle is an " Authorized Vehicle " within s. 2 (vi) of the Road and Rail Traffic Act, 1933, and that the condition as to compliance with a speed limit imposed by s. 8 of that Act does not apply to it when it is not being used for the carriage of goods. This submission is made by virtue of the recent decision of the divisional court in the case of *Woolley* v. *Moore* [1952] 2 All E.R. 797.

Does the fact that the vehicle is a heavy goods vehicle with a speed limit of twenty m.p.h. take it outside the ambit of that decision ? JEN.

Answer.

Yes. The case referred to was concerned with the interpretation of the amended para. 2 (1) (*a*) of the first schedule to the 1930 Act, and has no relation to a vehicle governed by para. 2 (1) (*d*).

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

BOROUGH OF CHESTERFIELD

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APPLICATIONS invited from Solicitors experienced in Local Government and administration for the appointment of Deputy Town Clerk. Salary £1,050×£50—£1,250, commencing salary according to experience and qualifications. Conditions of service in accordance with recommendations of Negotiating Committee for Chief Officer of Local Authorities.

Particulars of appointment and forms of application, returnable by July 15, 1953, may be obtained from the undersigned, at Town Hall, Chesterfield.

RICHARD CLEGG,
Town Clerk.

STAFFORDSHIRE MAGISTRATES' COURTS COMMITTEE

LICHFIELD CITY DIVISION, ALDRIDGE AND RUSHALL, LICHFIELD AND BROWNHILLS, TAMWORTH BOROUGH AND TAMWORTH COUNTY PETTY SESSIONAL DIVISIONS

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APPLICATIONS are invited for the above appointment at a salary of £490 per annum. The successful candidate will be required to give his whole time to the appointment and he will be employed in the Justices' Clerk's Offices at Lichfield and Tamworth.

Candidates should be competent shorthand-typists and preference may be given to those who have previous experience in a Justices' Clerk's Office.

The appointment is superannuable and subject to one month's notice on either side and the successful candidate will be required to pass a medical examination. Canvassing will be a disqualification.

Applications, giving full particulars of age, qualifications and experience, and accompanied by two recent testimonials, should be sent to the undersigned to reach him not later than July 18, 1953. The covering envelope should be endorsed "Application for Second Assistant."

T. H. EVANS,
Clerk of the Magistrates' Courts Committee.

County Buildings,
Stafford.
July, 1953.

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